761 et seq.], the Emergency Petroleum Allocation Act of 1973[1] [15 U.S.C. 751 et seq.], the Energy Supply and Environmental Coordination Act of 1974 [15 U.S.C. 791 et seq.], or the Energy Policy and Conservation Act [42 U.S.C. 6201 et seq.], consistent with the other purposes of the relevant Act, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens, and shall by rule, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or recission[2] of, exception to, or exemption from, such rule, regulation or order. The Secretary or any such officer shall additionally insure that each decision on any application or petition requesting an adjustment shall specify the standards of hardship, inequity, or unfair distribution of burden by which any disposition was made, and the specific application of such standards to the facts contained in any such application or petition.

(b)(1) If any person is aggrieved or adversely affected by a denial of a request for adjustment under subsection (a) of this section such person may request a review of such denial by the Commission and may obtain judicial review in accordance with this subchapter when such a denial becomes final.

(2) The Commission shall, by rule, establish appropriate procedures, including a hearing when requested, for review of a denial. Action by the Commission under this section shall be considered final agency action within the meaning of section 704 of title 5 and shall not be subject to further review by the Secretary or any officer or employee of the Department. Litigation involving judicial review of such action shall be the responsibility of the Secretary.

(Pub. L. 95–91, title V, § 504, Aug. 4, 1977, 91 Stat. 590.)

REFERENCES IN TEXT

The Federal Energy Administration Act, referred to in subsec. (a), is Pub. L. 93–275, May 7, 1974, 88 Stat. 96, as amended, which is classified generally to chapter 16B (§ 761 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 761 of Title 15 and Tables.

The Emergency Petroleum Allocation Act of 1973, referred to in subsec. (a), is Pub. L. 93–159, Nov. 27, 1973, 87 Stat. 628, as amended, which was classified generally to chapter 16A (§ 751 et seq.) of Title 15, and was omitted from the Code pursuant to section 760g of Title 15, which provided for the expiration of the President's authority under that chapter on Sept. 30, 1981.

The Energy Supply and Environmental Coordination Act of 1974, referred to in subsec. (a), is Pub. L. 93–319, June 22, 1974, 88 Stat. 246, as amended, which is classified principally to chapter 16C (§ 791 et seq.) of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 791 of Title 15 and Tables.

The Energy Policy and Conservation Act, referred to in subsec. (a), is Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 871, as amended, which is classified principally to chapter 77 (§ 6201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 4504.

[1] See References in Text note below.

[2] So in original. Probably should be ''recision''.

§ 7195. Report to Congress; contents

Within one year after October 1, 1977, the Secretary shall submit a report to Congress concerning the actions taken to implement section 7191 of this title. The report shall include a discussion of the adequacy of such section from the standpoint of the Department and the public, including a summary of any comments obtained by the Secretary from the public about such section and implementing regulations, and such recommendations as the Secretary deems appropriate concerning the procedures required by such section.

(Pub. L. 95–91, title V, § 505, Aug. 4, 1977, 91 Stat. 591.)

SUBCHAPTER VI—ADMINISTRATIVE PROVISIONS

PART A—CONFLICT OF INTEREST PROVISIONS

§§ 7211, 7212. Repealed. Pub. L. 104–106, div. D, title XLIII, § 4304(b)(6), Feb. 10, 1996, 110 Stat. 664

Section 7211, Pub. L. 95–91, title VI, § 601, Aug. 4, 1977, 91 Stat. 591; Pub. L. 103–160, div. C, title XXXI, § 3161(c)(1)(A), (B), Nov. 30, 1993, 107 Stat. 1958, related to definitions of supervisory employees and energy concern.

Section 7212, Pub. L. 95–91, title VI, § 602, Aug. 4, 1977, 91 Stat. 592; 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3784; Pub. L. 103–160, div. C, title XXXI, § 3161(b), (c)(1)(C), Nov. 30, 1993, 107 Stat. 1958, related to divestiture of energy holdings by supervisory employees.

EFFECTIVE DATE OF REPEAL

For effective date and applicability of repeal, see section 4401 of Pub. L. 104–106, set out as an Effective Date of 1996 Amendment note under section 251 of Title 41, Public Contracts.

§§ 7213 to 7217. Repealed. Pub. L. 103–160, div. C, title XXXI, § 3161(a), Nov. 30, 1993, 107 Stat. 1957

Section 7213, Pub. L. 95–91, title VI, § 603, Aug. 4, 1977, 91 Stat. 593, related to disclosure of energy assets.

Section 7214, Pub. L. 95–91, title VI, § 604, Aug. 4, 1977, 91 Stat. 594, required, with exceptions for certain information, that supervisory employees of Department file report on prior employment.

Section 7215, Pub. L. 95–91, title VI, § 605, Aug. 4, 1977, 91 Stat. 594, related to postemployment prohibitions and reporting requirements.

Section 7216, Pub. L. 95–91, title VI, § 606, Aug. 4, 1977, 91 Stat. 595, prohibited former supervisory employees from participating in certain Department proceedings.

Section 7217, Pub. L. 95–91, title VI, § 607, Aug. 4, 1977, 91 Stat. 596; 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3784, related to procedures applicable to reports under former sections 7213, 7214, and 7215 of this title.

§ 7218. Repealed. Pub. L. 104–106, div. D, title XLIII, § 4304(b)(6), Feb. 10, 1996, 110 Stat. 664

Section, Pub. L. 95–91, title VI, § 603, formerly § 608, Aug. 4, 1977, 91 Stat. 596; renumbered § 603 and amended, Pub. L. 103–160, div. C, title XXXI, § 3161(c)(1)(D), (E), Nov. 30, 1993, 107 Stat. 1958, related to sanctions.

A prior section 603 of Pub. L. 95–91 was classified to section 7213 of this title prior to repeal by Pub. L. 103–160.

EFFECTIVE DATE OF REPEAL

For effective date and applicability of repeal, see section 4401 of Pub. L. 104–106, set out as an Effective Date

of 1996 Amendment note under section 251 of Title 41, Public Contracts.

PART B—PERSONNEL PROVISIONS

§ 7231. Officers and employees

(a) Authority of Secretary to appoint and fix compensation

In the performance of his functions the Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out such functions. Except as otherwise provided in this section, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5.

(b) Appointment of scientific, engineering, etc., personnel without regard to civil service laws; compensation; termination of authority

(1) Subject to the limitations provided in paragraph (2) and to the extent the Secretary deems such action necessary to the discharge of his functions, he may appoint not more than three hundred eleven of the scientific, engineering, professional, and administrative personnel of the department without regard to the civil service laws, and may fix the compensation of such personnel not in excess of the maximum rate payable for GS–18 of the General Schedule under section 5332 of title 5.

(2) The Secretary's authority under this subsection to appoint an individual to such a position without regard to the civil service laws shall cease—

(A) when a person appointed, within four years after October 1, 1977, to fill such position under paragraph (1) leaves such position, or

(B) on the day which is four years after such date,

whichever is later.

(c) Placement of GS–16, GS–17, and GS–18 positions without regard to section 3324 of title 5; termination of authority

(1) Subject to the provisions of chapter 51 of title 5 but notwithstanding the last two sentences of section 5108(a)[1] of such title, the Secretary may place at GS–16, GS–17, and GS–18, not to exceed one hundred seventy-eight positions of the positions subject to the limitation of the first sentence of section 5108(a)[1] of such title.

(2) Appointments under this subsection may be made without regard to the provisions of sections 3324 of title 5, relating to the approval by the Director of the Office of Personnel Management of appointments under GS–16, GS–17, and GS–18 if the individual placed in such position is an individual who is transferred in connection with a transfer of functions under this chapter and who, immediately before October 1, 1977, held a position and duties comparable to those of such position.

(3) The Secretary's authority under this subsection with respect to any position shall cease when the person first appointed to fill such position leaves such position.

[1] See References in Text note below.

(d) Appointment of additional scientific, engineering, etc., personnel without regard to civil service laws; compensation

In addition to the number of positions which may be placed at GS–16, GS–17, and GS–18 under section 5108 of title 5, under existing law, or under this chapter, and to the extent the Secretary deems such action necessary to the discharge of his functions, he may appoint not more than two hundred of the scientific, engineering, professional, and administrative personnel without regard to the civil service laws and may fix the compensation of such personnel not in excess of the maximum rate payable for GS–18 of the General Schedule under section 5332 of title 5.

(e) Determination of maximum aggregate number of positions

For the purposes of determining the maximum aggregate number of positions which may be placed at GS–16, GS–17, or GS–18 under section 5108(a) of title 5, 63 percent of the positions established under subsections (b) and (c) of this section shall be deemed GS–16 positions, 25 percent of such positions shall be deemed GS–17 positions, and 12 percent of such positions shall be deemed GS–18.

(f) Intelligence and intelligence-related positions exempt from competitive service

All positions in the Department which the Secretary determines are devoted to intelligence and intelligence-related activities of the United States Government are excepted from the competitive service, and the individuals who occupy such positions as of August 14, 1991, shall, while employed in such positions, be exempt from the competitive service.

(Pub. L. 95–91, title VI, § 621, Aug. 4, 1977, 91 Stat. 596; 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3784; Pub. L. 102–88, title IV, § 403, Aug. 14, 1991, 105 Stat. 434.)

REFERENCES IN TEXT

The civil service laws, referred to in subsecs. (a), (b)(1), (2), and (d), are set out in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

Section 5108(a) of title 5, referred to in subsec. (c)(1), was amended generally by Pub. L. 101–509, title V, § 529 [title I, § 102(b)(2)], Nov. 5, 1990, 104 Stat. 1427, 1443, and, as so amended, contains only one sentence.

This chapter, referred to in subsecs. (c)(2) and (d), was in the original ''this Act'', meaning Pub. L. 95–91, Aug. 4, 1977, 91 Stat. 565, as amended, known as the Department of Energy Organization Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

CODIFICATION

August 14, 1991, referred to in subsec. (f), was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 102–88, which enacted subsec. (f) of this section, to reflect the probable intent of Congress.

AMENDMENTS

1991—Subsec. (f). Pub. L. 102–88 added subsec. (f).

TRANSFER OF FUNCTIONS

''Director of the Office of Personnel Management'' substituted for ''Civil Service Commission'' in subsec.

(c)(2), pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred all functions vested by statute in United States Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

AUTHORITY FOR APPOINTMENT OF CERTAIN SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL

Pub. L. 103–337, div. C, title XXXI, §3161, Oct. 5, 1994, 108 Stat. 3095, as amended by Pub. L. 105–85, div. C, title XXXI, §3139, Nov. 18, 1997, 111 Stat. 2040; Pub. L. 105–261, div. C, title XXXI, §§3152, 3155, Oct. 17, 1998, 112 Stat. 2253, 2257, provided that:

''(a) AUTHORITY.—(1) Notwithstanding any provision of title 5, United States Code, governing appointments in the competitive service and General Schedule classification and pay rates, the Secretary of Energy may—

''(A) establish and set the rates of pay for not more than 200 positions in the Department of Energy for scientific, engineering, and technical personnel whose duties will relate to safety at defense nuclear facilities of the Department; and

''(B) appoint persons to such positions.

''(2) The rate of pay for a position established under paragraph (1) may not exceed the rate of pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

''(3) To the maximum extent practicable, the Secretary shall appoint persons under paragraph (1)(B) to the positions established under paragraph (1)(A) in accordance with the merit system principles set forth in section 2301 of such title.

''(4) The Secretary may not appoint more than 100 persons during fiscal year 1995 under the authority provided in this subsection.

''(b) OPM REVIEW.—(1) The Secretary shall enter into an agreement with the Director of the Office of Personnel Management under which agreement the Director shall periodically evaluate the use of the authority set forth in subsection (a)(1). The Secretary shall reimburse the Director for evaluations conducted by the Director pursuant to the agreement. Any such reimbursement shall be credited to the revolving fund referred to in section 1304(e) of title 5, United States Code.

''(2) If the Director determines as a result of such evaluation that the Secretary of Energy is not appointing persons to positions under such authority in a manner consistent with the merit system principles set forth in section 2301 of title 5, United States Code, or is setting rates of pay at levels that are not appropriate for the qualifications and experience of the persons appointed and the duties of the positions involved, the Director shall notify the Secretary and Congress of that determination.

''(3) Upon receipt of a notification under paragraph (2), the Secretary shall—

''(A) take appropriate actions to appoint persons to positions under such authority in a manner consistent with such principles or to set rates of pay at levels that are appropriate for the qualifications and experience of the persons appointed and the duties of the positions involved; or

''(B) cease appointment of persons under such authority.

''(c) TERMINATION.—(1) The authority provided under subsection (a)(1) shall terminate on September 30, 2000.

''(2) An employee may not be separated from employment with the Department of Energy or receive a reduction in pay by reason of the termination of authority under paragraph (1).''

§ 7232. Senior positions

In addition to those positions created by subchapter II of this chapter, there shall be within the Department fourteen additional officers in positions authorized by section 5316 of title 5 who shall be appointed by the Secretary and who shall perform such functions as the Secretary shall prescribe from time to time.

(Pub. L. 95–91, title VI, §622, Aug. 4, 1977, 91 Stat. 597.)

§ 7233. Experts and consultants

The Secretary may obtain services as authorized by section 3109 of title 5, at rates not to exceed the daily rate prescribed for grade GS–18 of the General Schedule under section 5332 of title 5 for persons in Government service employed intermittently.

(Pub. L. 95–91, title VI, §623, Aug. 4, 1977, 91 Stat. 598.)

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 7234. Advisory committees

The Secretary is authorized to establish in accordance with the Federal Advisory Committee Act such advisory committees as he may deem appropriate to assist in the performance of his functions. Members of such advisory committees, other than full-time employees of the Federal Government, while attending meetings of such committees or while otherwise serving at the request of the Secretary while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for individuals in the Government serving without pay.

(Pub. L. 95–91, title VI, §624, Aug. 4, 1977, 91 Stat. 598; Pub. L. 105–28, §2(b)(1), July 18, 1997, 111 Stat. 245.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in text, is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1997—Pub. L. 105–28 struck out subsec. (a) designation and struck out subsec. (b) which read as follows: ''Section 776 of title 15 shall be applicable to advisory committees chartered by the Secretary, or transferred to the Secretary or the Department under this chapter, except that where an advisory committee advises the Secretary on matters pertaining to research and development, the Secretary may determine that such meeting shall be closed because it involves research and de-

velopment matters and comes within the exemption of section 552b(c)(4) of title 5.''

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5588 of this title.

§ 7235. Armed services personnel

(a) The Secretary is authorized to provide for participation of Armed Forces personnel in carrying out functions authorized to be performed, on August 4, 1977, in the Energy Research and Development Administration and under chapter 641 of title 10. Members of the Armed Forces may be detailed for service in the Department by the Secretary concerned (as such term is defined in section 101 of such title) pursuant to cooperative agreements with the Secretary.

(b) The detail of any personnel to the Department under this section shall in no way affect status, office, rank, or grade which officers or enlisted men may occupy or hold or any emolument, perquisite, right, privilege, or benefit incident to, or arising out of, such status, office, rank, or grade. A member so detailed shall not be subject to direction or control by his armed force, or any officer thereof, directly or indirectly, with respect to the responsibilities exercised in the position to which detailed.

(Pub. L. 95–91, title VI, § 625, Aug. 4, 1977, 91 Stat. 598; Pub. L. 95–509, title II, § 210, Oct. 24, 1978, 92 Stat. 1779.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95–509 struck out requirement that a detailed member be charged to the limitations applicable to the Department and prohibition of such member from being charged to any statutory or other limitation or strengths applicable to the Armed Forces.

§ 7236. Executive management training in Department of Energy

(a) Establishment of training program

The Secretary of Energy shall establish and implement a management training program for personnel of the Department of Energy involved in the management of atomic energy defense activities.

(b) Training provisions

The training program shall at a minimum include instruction in the following areas:

(1) Department of Energy policy and procedures for management and operation of atomic energy defense facilities.

(2) Methods of evaluating technical performance.

(3) Federal and State environmental laws and requirements for compliance with such environmental laws, including timely compliance with reporting requirements in such laws.

(4) The establishment of program milestones and methods to evaluate success in meeting such milestones.

(5) Methods for conducting long-range technical and budget planning.

(6) Procedures for reviewing and applying innovative technology to environmental restoration and defense waste management.

(Pub. L. 101–189, div. C, title XXXI, § 3142, Nov. 29, 1989, 103 Stat. 1680.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Years 1990 and 1991, and not as part of the Department of Energy Organization Act which comprises this chapter.

§ 7237. Priority placement, job placement, retraining, and counseling programs for United States Department of Energy employees affected by reduction in force

(a) Definitions

(1) For the purposes of this section, the term ''agency'' means the United States Department of Energy.

(2) For the purposes of this section, the term ''eligible employee'' means any employee of the agency who—

(A) is scheduled to be separated from service due to a reduction in force under—

(i) regulations prescribed under section 3502 of title 5; or

(ii) procedures established under section 3595 of title 5; or

(B) is separated from service due to such a reduction in force, but does not include—

(i) an employee separated from service for cause on charges of misconduct or delinquency; or

(ii) an employee who, at the time of separation, meets the age and service requirements for an immediate annuity under subchapter III of chapter 83 or chapter 84 of title 5.

(b) Priority placement and retraining program

Not later than 30 days after September 30, 1996, the United States Department of Energy shall establish an agency-wide priority placement and retraining program for eligible employees.

(c) Filling vacancy from outside agency

The priority placement program established under subsection (b) of this section shall include provisions under which a vacant position shall not be filled by the appointment or transfer of any individual from outside of the agency if—

(1) there is then available any eligible employee who applies for the position within 30 days of the agency issuing a job announcement and is qualified (or can be trained or retrained to become qualified within 90 days of assuming the position) for the position; and

(2) the position is within the same commuting area as the eligible employee's last-held position or residence.

(d) Job placement and counseling services

The head of the agency may establish a program to provide job placement and counseling

services to eligible employees. A program established under subsection (d) of this section may include, but is not limited to, such services as—

(1) career and personal counseling;

(2) training and job search skills; and

(3) job placement assistance, including assistance provided through cooperative arrangements with State and local employment services offices.

(Pub. L. 104–206, title III, § 301, Sept. 30, 1996, 110 Stat. 2999.)

CODIFICATION

Section was enacted as part of the Energy and Water Development Appropriations Act, 1997, and not as part of the Department of Energy Organization Act which comprises this chapter.

§ 7238. Temporary appointments for scientific and technical experts in Department of Energy research and development programs

(a) The Secretary, utilizing authority under other applicable law and the authority of this section, may appoint for a limited term, or on a temporary basis, scientists, engineers, and other technical and professional personnel on leave of absence from academic, industrial, or research institutions to work for the Department.

(b) The Department may pay, to the extent authorized for certain other Federal employees by section 5723 of title 5, travel expenses for any individual appointed for a limited term or on a temporary basis and transportation expenses of his or her immediate family and his or her household goods and personal effects from that individual's residence at the time of selection or assignment to his or her duty station. The Department may pay such travel expenses to the same extent for such an individual's return to the former place of residence from his or her duty station, upon separation from the Federal service following an agreed period of service. The Department may also pay a per diem allowance at a rate not to exceed the daily amounts prescribed under section 5702 of title 5 to such an individual, in lieu of transportation expenses of the immediate family and household goods and personal effects, for the period of his or her employment with the Department. Notwithstanding any other provision of law, the employer's contribution to any retirement, life insurance, or health benefit plan for an individual appointed for a term of one year or less, which could be extended for no more than one additional year, may be made or reimbursed from appropriations available to the Department.

(Pub. L. 104–271, title III, § 301, Oct. 9, 1996, 110 Stat. 3307.)

CODIFICATION

Section was enacted as part of the Hydrogen Future Act of 1996, and not as part of the Department of Energy Organization Act which comprises this chapter.

DEFINITIONS

Section 2 of Pub. L. 104–271 provided that: ''For purposes of titles II and III [enacting this section and provisions set out as a note under section 12403 of this title]—

''(1) the term 'Department' means the Department of Energy; and

''(2) the term 'Secretary' means the Secretary of Energy.''

§ 7239. Whistleblower protection program

(a) Program required

The Secretary of Energy shall establish a program to ensure that covered individuals may not be discharged, demoted, or otherwise discriminated against as a reprisal for making protected disclosures.

(b) Covered individuals

For purposes of this section, a covered individual is an individual who is an employee of the Department of Energy, or of a contractor of the Department, who is engaged in the defense activities of the Department.

(c) Protected disclosures

For purposes of this section, a protected disclosure is a disclosure—

(1) made by a covered individual who takes appropriate steps to protect the security of the information in accordance with guidance provided under this section;

(2) made to a person or entity specified in subsection (d) of this section; and

(3) of classified or other information that the covered individual reasonably believes to provide direct and specific evidence of any of the following:

(A) A violation of law or Federal regulation.

(B) Gross mismanagement, a gross waste of funds, or abuse of authority.

(C) A false statement to Congress on an issue of material fact.

(d) Persons and entities to which disclosures may be made

A person or entity specified in this subsection is any of the following:

(1) A member of a committee of Congress having primary responsibility for oversight of the department, agency, or element of the Government to which the disclosed information relates.

(2) An employee of Congress who is a staff member of such a committee and has an appropriate security clearance for access to information of the type disclosed.

(3) The Inspector General of the Department of Energy.

(4) The Federal Bureau of Investigation.

(5) Any other element of the Government designated by the Secretary as authorized to receive information of the type disclosed.

(e) Official capacity of persons to whom information is disclosed

A member of, or an employee of Congress who is a staff member of, a committee of Congress specified in subsection (d) of this section who receives a protected disclosure under this section does so in that member or employee's official capacity as such a member or employee.

(f) Assistance and guidance

The Secretary, acting through the Inspector General of the Department of Energy, shall provide assistance and guidance to each covered individual who seeks to make a protected disclo-

sure under this section. Such assistance and guidance shall include the following:

(1) Identifying the persons or entities under subsection (d) of this section to which that disclosure may be made.

(2) Advising that individual regarding the steps to be taken to protect the security of the information to be disclosed.

(3) Taking appropriate actions to protect the identity of that individual throughout that disclosure.

(4) Taking appropriate actions to coordinate that disclosure with any other Federal agency or agencies that originated the information.

(g) Regulations

The Secretary shall prescribe regulations to ensure the security of any information disclosed under this section.

(h) Notification to covered individuals

The Secretary shall notify each covered individual of the following:

(1) The rights of that individual under this section.

(2) The assistance and guidance provided under this section.

(3) That the individual has a responsibility to obtain that assistance and guidance before seeking to make a protected disclosure.

(i) Complaint by covered individuals

If a covered individual believes that that individual has been discharged, demoted, or otherwise discriminated against as a reprisal for making a protected disclosure under this section, the individual may submit a complaint relating to such matter to the Director of the Office of Hearings and Appeals of the Department of Energy.

(j) Investigation by Office of Hearings and Appeals

(1) For each complaint submitted under subsection (i) of this section, the Director of the Office of Hearings and Appeals shall—

(A) determine whether or not the complaint is frivolous; and

(B) if the Director determines the complaint is not frivolous, conduct an investigation of the complaint.

(2) The Director shall submit a report on each investigation undertaken under paragraph (1)(B) to—

(A) the individual who submitted the complaint on which the investigation is based;

(B) the contractor concerned, if any; and

(C) the Secretary of Energy.

(k) Remedial action

(1) Whenever the Secretary determines that a covered individual has been discharged, demoted, or otherwise discriminated against as a reprisal for making a protected disclosure under this section, the Secretary shall—

(A) in the case of a Department employee, take appropriate actions to abate the action; or

(B) in the case of a contractor employee, order the contractor concerned to take appropriate actions to abate the action.

(2)(A) If a contractor fails to comply with an order issued under paragraph (1)(B), the Secretary may file an action for enforcement of the order in the appropriate United States district court.

(B) In any action brought under subparagraph (A), the court may grant appropriate relief, including injunctive relief and compensatory and exemplary damages.

***(l)* Relationship to other laws**

The protections provided by this section are independent of, and not subject to any limitations that may be provided in, the Whistleblower Protection Act of 1989 (Public Law 101–512)[1] or any other law that may provide protection for disclosures of information by employees of the Department of Energy or of a contractor of the Department.

(m) Annual report

(1) Not later than 30 days after the commencement of each fiscal year, the Director shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the investigations undertaken under subsection (j)(1)(B) of this section during the preceding fiscal year, including a summary of the results of each such investigation.

(2) A report under paragraph (1) may not identify or otherwise provide any information about an individual submitting a complaint under this section without the consent of the individual.

(n) Implementation report

Not later than 60 days after October 5, 1999, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report describing the implementation of the program required by this section.

(Pub. L. 106–65, div. C, title XXXI, § 3164, Oct. 5, 1999, 113 Stat. 946.)

REFERENCES IN TEXT

The Whistleblower Protection Act of 1989, referred to in subsec. (*l*), is Pub. L. 101–12, Apr. 10, 1989, 103 Stat. 16, as amended, which enacted subchapters II (§ 1211 et seq.) and III (§ 1221 et seq.) of chapter 12 and section 3352 of Title 5, Government Organization and Employees, amended sections 1201 to 1206, 1209, 1211, 2302, 2303, 3393, 7502, 7512, 7521, 7542, 7701, and 7703 of Title 5 and section 4139 of Title 22, Foreign Relations and Intercourse, repealed sections 1207 and 1208 of Title 5, and enacted provisions set out as notes under sections 1201, 1211, and 5509 of Title 5. For complete classification of this Act to the Code, see Short Title of 1989 Amendment note set out under section 1201 of Title 5 and Tables.

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2000, and not as part of the Department of Energy Organization Act which comprises this chapter.

PART C—GENERAL ADMINISTRATIVE PROVISIONS

§ 7251. General authority

To the extent necessary or appropriate to perform any function transferred by this chapter, the Secretary or any officer or employee of the Department may exercise, in carrying out the

[1] See References in Text note below.

function so transferred, any authority or part thereof available by law, including appropriation Acts, to the official or agency from which such function was transferred.

(Pub. L. 95–91, title VI, §641, Aug. 4, 1977, 91 Stat. 598.)

DEPARTMENT OF ENERGY SECURITY MANAGEMENT BOARD

Pub. L. 105–85, div. C, title XXXI, §3161, Nov. 18, 1997, 111 Stat. 2048, required the Secretary of Energy to establish the Department of Energy Security Management Board, and provided for its duties which related to the security functions of the Department, and its membership, appointments, personnel, compensation, expenses, and termination on Oct. 31, 2000, prior to repeal by Pub. L. 106–65, div. C, title XXXI, §3142(h)(1), Oct. 5, 1999, 113 Stat. 933.

§ 7252. Delegation

Except as otherwise expressly prohibited by law, and except as otherwise provided in this chapter, the Secretary may delegate any of his functions to such officers and employees of the Department as he may designate, and may authorize such successive redelegations of such functions within the Department as he may deem to be necessary or appropriate.

(Pub. L. 95–91, title VI, §642, Aug. 4, 1977, 91 Stat. 599.)

REORGANIZATION OF FIELD ACTIVITIES AND MANAGEMENT OF NATIONAL SECURITY FUNCTIONS

Pub. L. 104–206, title III, §302, Sept. 30, 1996, 110 Stat. 2999, provided that: ''None of the funds appropriated by this or any other Act may be used to implement section 3140 of H.R. 3230 as reported by the Committee of Conference on July 30, 1996 [Pub. L. 104–201, set out below]. The Secretary of Energy shall develop a plan to reorganize the field activities and management of the national security functions of the Department of Energy and shall submit such plan to the Congress not later than 120 days after the date of enactment of this Act [Sept. 30, 1996]. The plan will specifically identify all significant functions performed by the Department's national security operations and area offices and make recommendations as to where those functions should be performed.''

Pub. L. 104–201, div. C, title XXXI, §3140, Sept. 23, 1996, 110 Stat. 2833, provided that:

''(a) LIMITATION ON DELEGATION OF AUTHORITY.—(1) The Secretary of Energy, in carrying out national security programs, may delegate specific management and planning authority over matters relating to site operation of the facilities and laboratories covered by this section only to the Assistant Secretary of Energy for Defense Programs. Such Assistant Secretary may redelegate such authority only to managers of area offices of the Department of Energy located at such facilities and laboratories.

''(2) Nothing in this section may be construed as affecting the delegation by the Secretary of Energy of authority relating to reporting, management, and oversight of matters relating to the Department of Energy generally, or safety, environment, and health at such facilities and laboratories.

''(b) REQUIREMENT TO CONSULT WITH AREA OFFICES.—The Assistant Secretary of Energy for Defense Programs, in exercising any delegated authority to oversee management of matters relating to site operation of a facility or laboratory, shall exercise such authority only after direct consultation with the manager of the area office of the Department of Energy located at the facility or laboratory.

''(c) REQUIREMENT FOR DIRECT COMMUNICATION FROM AREA OFFICES.—The Secretary of Energy, acting through the Assistant Secretary of Energy for Defense Programs, shall require the head of each area office of the Department of Energy located at each facility and laboratory covered by this section to report on matters relating to site operation other than those matters set forth in subsection (a)(2) directly to the Assistant Secretary of Energy for Defense Programs, without obtaining the approval or concurrence of any other official within the Department of Energy.

''(d) DEFENSE PROGRAMS REORGANIZATION PLAN AND REPORT.—(1) The Secretary of Energy shall develop a plan to reorganize the field activities and management of the national security functions of the Department of Energy.

''(2) Not later than 120 days after the date of the enactment of this Act [Sept. 23, 1996], the Secretary shall submit to Congress a report on the plan developed under paragraph (1). The report shall specifically identify all significant functions performed by the operations offices relating to any of the facilities and laboratories covered by this section and which of those functions could be performed—

''(A) by the area offices of the Department of Energy located at the facilities and laboratories covered by this section; or

''(B) by the Assistant Secretary of Energy for Defense Programs.

''(3) The report also shall address and make recommendations with respect to other internal streamlining and reorganization initiatives that the Department could pursue with respect to military or national security programs.

''(e) DEFENSE PROGRAMS MANAGEMENT COUNCIL.—The Secretary of Energy shall establish a council to be known as the 'Defense Programs Management Council'. The Council shall advise the Secretary on policy matters, operational concerns, strategic planning, and development of priorities relating to the national security functions of the Department of Energy. The Council shall be composed of the directors of the facilities and laboratories covered by this section and shall report directly to the Assistant Secretary of Energy for Defense Programs.

''(f) COVERED SITE OPERATIONS.—For purposes of this section, matters relating to site operation of a facility or laboratory include matters relating to personnel, budget, and procurement in national security programs.

''(g) COVERED FACILITIES AND LABORATORIES.—This section applies to the following facilities and laboratories of the Department of Energy:

''(1) The Kansas City Plant, Kansas City, Missouri.

''(2) The Pantex Plant, Amarillo, Texas.

''(3) The Y–12 Plant, Oak Ridge, Tennessee.

''(4) The Savannah River Site, Aiken, South Carolina.

''(5) Los Alamos National Laboratory, Los Alamos, New Mexico.

''(6) Sandia National Laboratories, Albuquerque, New Mexico.

''(7) Lawrence Livermore National Laboratory, Livermore, California.

''(8) The Nevada Test Site, Nevada.''

[All national security functions and activities performed immediately before Oct. 5, 1999 by covered facilities listed in section 3140(g) of Pub. L. 104–201, set out above, transferred to the Administrator for Nuclear Security of the National Nuclear Security Administration of the Department of Energy, see section 2481 of Title 50, War and National Defense.]

§ 7253. Reorganization

The Secretary is authorized to establish, alter, consolidate or discontinue such organizational units or components within the Department as he may deem to be necessary or appropriate. Such authority shall not extend to the abolition of organizational units or components estab-

lished by this chapter, or to the transfer of functions vested by this chapter in any organizational unit or component.

(Pub. L. 95–91, title VI, § 643, Aug. 4, 1977, 91 Stat. 599.)

§ 7254. Rules and regulations

The Secretary is authorized to prescribe such procedural and administrative rules and regulations as he may deem necessary or appropriate to administer and manage the functions now or hereafter vested in him.

(Pub. L. 95–91, title VI, § 644, Aug. 4, 1977, 91 Stat. 599.)

§ 7255. Subpoena

For the purpose of carrying out the provisions of this chapter, the Secretary, or his duly authorized agent or agents, shall have the same powers and authorities as the Federal Trade Commission under section 49 of title 15 with respect to all functions vested in, or transferred or delegated to, the Secretary or such agents by this chapter. For purposes of carrying out its responsibilities under the Natural Gas Policy Act of 1978 [15 U.S.C. 3301 et seq.], the Commission shall have the same powers and authority as the Secretary has under this section.

(Pub. L. 95–91, title VI, § 645, Aug. 4, 1977, 91 Stat. 599; Pub. L. 95–621, title V, § 508(a), Nov. 9, 1978, 92 Stat. 3408.)

REFERENCES IN TEXT

The Natural Gas Policy Act of 1978, referred to in text, is Pub. L. 95–621, Nov. 9, 1978, 92 Stat. 3350, which is classified generally to chapter 60 (§ 3301 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 3301 of Title 15 and Tables.

AMENDMENTS

1978—Pub. L. 95–621 inserted provision giving the Commission the same powers and authority as the Secretary under this section for purposes of carrying out its responsibilities under the Natural Gas Policy Act of 1978.

§ 7256. Contracts, leases, etc., with public agencies and private organizations and persons

(a) General authority

The Secretary is authorized to enter into and perform such contracts, leases, cooperative agreements, or other similar transactions with public agencies and private organizations and persons, and to make such payments (in lump sum or installments, and by way of advance or reimbursement) as he may deem to be necessary or appropriate to carry out functions now or hereafter vested in the Secretary.

(b) Limitation on authority; appropriations

Notwithstanding any other provision of this subchapter, no authority to enter into contracts or to make payments under this subchapter shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

(c) Leasing of excess Department of Energy property

The Secretary may lease, upon terms and conditions the Secretary considers appropriate to promote national security or the public interest, acquired real property and related personal property that—

(1) is located at a facility of the Department of Energy to be closed or reconfigured;

(2) at the time the lease is entered into, is not needed by the Department of Energy; and

(3) is under the control of the Department of Energy.

(d) Terms of lease

(1) A lease entered into under subsection (c) of this section may not be for a term of more than 10 years, except that the Secretary may enter into a lease that includes an option to renew for a term of more than 10 years if the Secretary determines that entering into such a lease will promote the national security or be in the public interest.

(2) A lease entered into under subsection (c) of this section may provide for the payment (in cash or in kind) by the lessee of consideration in an amount that is less than the fair market rental value of the leasehold interest. Services relating to the protection and maintenance of the leased property may constitute all or part of such consideration.

(e) Environmental concerns

(1) Before entering into a lease under subsection (c) of this section, the Secretary shall consult with the Administrator of the Environmental Protection Agency (with respect to property located on a site on the National Priorities List) or the appropriate State official (with respect to property located on a site that is not listed on the National Priorities List) to determine whether the environmental conditions of the property are such that leasing the property, and the terms and conditions of the lease agreement, are consistent with safety and the protection of public health and the environment.

(2) Before entering into a lease under subsection (c) of this section, the Secretary shall obtain the concurrence of the Administrator of the Environmental Protection Agency or the appropriate State official, as the case may be, in the determination required under paragraph (1). The Secretary may enter into a lease under subsection (c) of this section without obtaining such concurrence if, within 60 days after the Secretary requests the concurrence, the Administrator or appropriate State official, as the case may be, fails to submit to the Secretary a notice of such individual's concurrence with, or rejection of, the determination.

(f) Retention and use of rentals; report

To the extent provided in advance in appropriations Acts, the Secretary may retain and use money rentals received by the Secretary directly from a lease entered into under subsection (c) of this section in any amount the Secretary considers necessary to cover the administrative expenses of the lease, the maintenance and repair of the leased property, or environmental restoration activities at the facility where the leased property is located. Amounts retained under this subsection shall be retained in a separate fund established in the Treasury for such purpose. The Secretary shall annually submit to the Congress a report on amounts retained and amounts used under this subsection.

(Pub. L. 95–91, title VI, § 646, Aug. 4, 1977, 91 Stat. 599; Pub. L. 103–160, div. C, title XXXI, § 3154, Nov. 30, 1993, 107 Stat. 1952.)

AMENDMENTS

1993—Subsecs. (c) to (f). Pub. L. 103–160 added subsecs. (c) to (f).

PILOT PROGRAM RELATING TO USE OF PROCEEDS OF DISPOSAL OR UTILIZATION OF CERTAIN DEPARTMENT OF ENERGY ASSETS

Pub. L. 105–85, div. C, title XXXI, § 3138, Nov. 18, 1997, 111 Stat. 2039, provided that:

''(a) PURPOSE.—The purpose of this section is to encourage the Secretary of Energy to dispose of or otherwise utilize certain assets of the Department of Energy by making available to the Secretary the proceeds of such disposal or utilization for purposes of defraying the costs of such disposal or utilization.

''(b) USE OF PROCEEDS TO DEFRAY COSTS.—(1) Notwithstanding section 3302 of title 31, United States Code, the Secretary may retain from the proceeds of the sale, lease, or disposal of an asset under subsection (c) an amount equal to the cost of the sale, lease, or disposal of the asset. The Secretary shall utilize amounts retained under this paragraph to defray the cost of the sale, lease, or disposal.

''(2) For purposes of paragraph (1), the cost of a sale, lease, or disposal shall include—

''(A) the cost of administering the sale, lease, or disposal;

''(B) the cost of recovering or preparing the asset concerned for the sale, lease, or disposal; and

''(C) any other cost associated with the sale, lease, or disposal.

''(c) COVERED TRANSACTIONS.—Subsection (b) applies to the following transactions:

''(1) The sale of heavy water at the Savannah River Site, South Carolina, that is under the jurisdiction of the Defense Environmental Management Program.

''(2) The sale of precious metals that are under the jurisdiction of the Defense Environmental Management Program.

''(3) The lease of buildings and other facilities located at the Hanford Reservation, Washington, that are under the jurisdiction of the Defense Environmental Management Program.

''(4) The lease of buildings and other facilities located at the Savannah River Site that are under the jurisdiction of the Defense Environmental Management Program.

''(5) The disposal of equipment and other personal property located at the Rocky Flats Defense Environmental Technology Site, Colorado, that is under the jurisdiction of the Defense Environmental Management Program.

''(6) The disposal of materials at the National Electronics Recycling Center, Oak Ridge, Tennessee that are under the jurisdiction of the Defense Environmental Management Program.

''(d) APPLICABILITY OF DISPOSAL AUTHORITY.—Nothing in this section shall be construed to limit the application of sections 202 and 203(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483 and 484(j)) to the disposal of equipment and other personal property covered by this section.

''(e) REPORT.—Not later than January 31, 1999, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of Senate and House of Representatives] a report on amounts retained by the Secretary under subsection (b) during fiscal year 1998.''

CONTRACT GOAL FOR SMALL DISADVANTAGED BUSINESSES AND CERTAIN INSTITUTIONS OF HIGHER EDUCATION

Section 3159 of Pub. L. 103–160, as amended by Pub. L. 103–337, div. A, title X, § 1070(b)(16), Oct. 5, 1994, 108 Stat. 2857, provided that:

''(a) GOAL.—Except as provided in subsection (c), a goal of 5 percent of the amount described in subsection (b) shall be the objective of the Department of Energy in carrying out national security programs of the Department in each of fiscal years 1994 through 2000 for the total combined amount obligated for contracts and subcontracts entered into with—

''(1) small business concerns, including mass media and advertising firms, owned and controlled by socially and economically disadvantaged individuals (as such term is used in section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and regulations issued under that section), the majority of the earnings of which directly accrue to such individuals;

''(2) historically Black colleges and universities, including any nonprofit research institution that was an integral part of such a college or university before November 14, 1986; and

''(3) minority institutions (as defined in section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1135d-5(3))), which, for the purposes of this section, shall include Hispanic-serving institutions (as defined in section 316(b)(1) of such Act (20 U.S.C. 1059c(b)(1))).

''(b) AMOUNT.—(1) Except as provided in paragraph (2), the requirements of subsection (a) for any fiscal year apply to the combined total of the funds obligated for contracts entered into by the Department of Energy pursuant to competitive procedures for such fiscal year for purposes of carrying out national security programs of the Department.

''(2) In computing the combined total of funds under paragraph (1) for a fiscal year, funds obligated for such fiscal year for contracts for naval reactor programs shall not be included.

''(c) APPLICABILITY.—Subsection (a) does not apply—

''(1) to the extent to which the Secretary of Energy determines that compelling national security considerations require otherwise; and

''(2) if the Secretary notifies the Congress of such a determination and the reasons for the determination.''

SMALL BUSINESS CONCERNS PARTICIPATION IN PROGRAMS FUNDED BY DEPARTMENT OF ENERGY ACT OF 1978—CIVILIAN APPLICATIONS; REPORT TO CONGRESSIONAL COMMITTEES

Pub. L. 95–238, title II, § 204, Feb. 25, 1978, 92 Stat. 59, as amended by Pub. L. 96–470, title II, § 203(f), Oct. 19, 1980, 94 Stat. 2243, provided that:

''(a) In carrying out the programs for which funds are authorized by this Act [see Tables for classification], the Secretary of Energy shall provide a realistic and adequate opportunity for small business concerns to participate in such programs to the optimum extent feasible consistent with the size and nature of the projects and activities involved.

''(b) The Secretary of Energy shall submit annually to the appropriate committees of the House of Representatives and the Senate a full report on the actions taken in carrying out subsection (a) during the preceding year, including the extent to which small business concerns are participating in the programs involved and in projects and activities of various types and sizes within each such program, and indicating the steps currently taken to assure such participation in the future. Such report shall also contain such information as may be required by section 308 of the Act of December 31, 1975 (42 U.S.C. 5878a; 89 Stat. 1074).''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7141 of this title.

§ 7256a. Costs not allowed under covered contracts

(a) In general

The following costs are not allowable under a covered contract:

(1) Costs of entertainment, including amusement, diversion, and social activities and any

costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities).

(2) Costs incurred to influence (directly or indirectly) legislative action on any matter pending before Congress or a State legislature.

(3) Costs incurred in defense of any civil or criminal fraud proceeding or similar proceeding (including filing of any false certification) brought by the United States where the contractor is found liable or has pleaded nolo contendere to a charge of fraud or similar proceeding (including filing of false certification).

(4) Payments of fines and penalties resulting from violations of, or failure to comply with, Federal, State, local, or foreign laws and regulations, except when incurred as a result of compliance with specific terms and conditions of the contract or specific written instructions from the contracting officer authorizing in advance such payments in accordance with applicable regulations of the Secretary of Energy.

(5) Costs of membership in any social, dining, or country club or organization.

(6) Costs of alcoholic beverages.

(7) Contributions or donations, regardless of the recipient.

(8) Costs of advertising designed to promote the contractor or its products.

(9) Costs of promotional items and memorabilia, including models, gifts, and souvenirs.

(10) Costs for travel by commercial aircraft or by travel by other than common carrier that is not necessary for the performance of the contract and the cost of which exceeds the amount of the standard commercial fare.

(b) Regulations; costs of information provided to Congress or State legislatures and related costs

(1) Not later than 150 days after November 8, 1985, the Secretary of Energy shall prescribe regulations to implement this section. Such regulations may establish appropriate definitions, exclusions, limitations, and qualifications. Such regulations shall be published in accordance with section 418b of title 41.

(2) In any regulations implementing subsection (a)(2) of this section, the Secretary may not treat as not allowable (by reason of such subsection) the following costs of a contractor:

(A) Costs of providing to Congress or a State legislature, in response to a request from Congress or a State legislature, information of a factual, technical, or scientific nature, or advice of experts, with respect to topics directly related to the performance of the contract.

(B) Costs for transportation, lodging, or meals incurred for the purpose of providing such information or advice.

(c) "Covered contract" defined

In this section, ''covered contract'' means a contract for an amount more than $100,000 entered into by the Secretary of Energy obligating funds appropriated for national security programs of the Department of Energy.

(d) Effective date

Subsection (a) of this section shall apply with respect to costs incurred under a covered contract on or after 30 days after the regulations required by subsection (b) of this section are issued.

(Pub. L. 99–145, title XV, § 1534, Nov. 8, 1985, 99 Stat. 774; Pub. L. 100–180, div. C, title III, § 3131(a), Dec. 4, 1987, 101 Stat. 1238.)

CODIFICATION

Section was enacted as part of the Department of Defense Authorization Act, 1986, and also as part of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1986, and not as part of the Department of Energy Organization Act which comprises this chapter.

AMENDMENTS

1987—Subsec. (b). Pub. L. 100–180 designated existing provisions as par. (1) and added par. (2).

REGULATIONS

Section 3131(b) of Pub. L. 100–180 provided that: ''Regulations to implement paragraph (2) of section 1534(b) of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1986 (as added by subsection (a)) [42 U.S.C. 7256a(b)(2)] shall be prescribed not later than 90 days after the date of the enactment of this Act [Dec. 4, 1987]. Such regulations shall apply as if included in the original regulations prescribed under such section.''

§ 7256b. Prohibition and report on bonuses to contractors operating defense nuclear facilities

(a) Prohibition

The Secretary of Energy may not provide any bonuses, award fees, or other form of performance- or production-based awards to a contractor operating a Department of Energy defense nuclear facility unless, in evaluating the performance or production under the contract, the Secretary considers the contractor's compliance with all applicable environmental, safety, and health statutes, regulations, and practices for determining both the size of, and the contractor's qualification for, such bonus, award fee, or other award. The prohibition in this subsection applies with respect to contracts entered into, or contract options exercised, after November 29, 1989.

(b) Report on Rocky Flats bonuses

The Secretary of Energy shall investigate the payment, from 1981 to 1988, of production bonuses to Rockwell International, the contractor operating the Rocky Flats Plant (Golden, Colorado), for purposes of determining whether the payment of such bonuses was made under fraudulent circumstances. Not later than 6 months after November 29, 1989, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the results of that investigation, including the Secretary's conclusions and recommendations.

(c) "Department of Energy defense nuclear facility" defined

In this section, the term ''Department of Energy defense nuclear facility'' has the meaning given such term by section 2286g of this title.

(d) Regulations

The Secretary of Energy shall promulgate regulations to implement subsection (a) of this sec-

tion not later than 90 days after November 29, 1989.

(Pub. L. 101–189, div. C, title XXXI, §3151, Nov. 29, 1989, 103 Stat. 1682.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Years 1990 and 1991, and not as part of the Department of Energy Organization Act which comprises this chapter.

§ 7257. Acquisition, construction, etc., of laboratories, research and testing sites, etc.

The Secretary is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, personal property (including patents), or any interest therein, as the Secretary deems necessary; and to provide by contract or otherwise for eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations and purchase and maintain equipment therefor.

(Pub. L. 95–91, title VI, §647, Aug. 4, 1977, 91 Stat. 599.)

PILOT PROGRAM FOR PROJECT MANAGEMENT OVERSIGHT REGARDING DEPARTMENT OF ENERGY CONSTRUCTION PROJECTS

Pub. L. 106–65, div. C, title XXXI, §3175, Oct. 5, 1999, 113 Stat. 950, provided that:

''(a) REQUIREMENT.—(1) The Secretary of Energy shall carry out a pilot program on use of project management oversight services (in this section referred to as 'PMO services') for construction projects of the Department of Energy.

''(2) The purpose of the pilot program shall be to provide a basis for determining whether or not the use of competitively procured, external PMO services for those construction projects would permit the Department to control excessive costs and schedule delays associated with those construction projects that have large capital costs.

''(b) PROJECTS COVERED BY PROGRAM.—(1) Subject to paragraph (2), the Secretary shall carry out the pilot program at construction projects selected by the Secretary. The projects shall include one or more construction projects authorized pursuant to section 3101 [113 Stat. 915] and one construction project authorized pursuant to section 3102 [113 Stat. 917].

''(2) Each project selected by the Secretary shall be a project having capital construction costs anticipated to be not less than $25,000,000.

''(c) SERVICES UNDER PROGRAM.—The PMO services used under the pilot program shall include the following services:

''(1) Monitoring the overall progress of a project.

''(2) Determining whether or not a project is on schedule.

''(3) Determining whether or not a project is within budget.

''(4) Determining whether or not a project conforms with plans and specifications approved by the Department.

''(5) Determining whether or not a project is being carried out efficiently and effectively.

''(6) Any other management oversight services that the Secretary considers appropriate for purposes of the pilot program.

''(d) PROCUREMENT OF SERVICES UNDER PROGRAM.—Any PMO services procured under the pilot program shall be acquired—

''(1) on a competitive basis; and

''(2) from among commercial entities that—

''(A) do not currently manage or operate facilities at a location where the pilot program is being conducted; and

''(B) have an expertise in the management of large construction projects.

''(e) REPORT.—Not later than February 1, 2000, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the pilot program. The report shall include the assessment of the Secretary as to the feasibility and desirability of using PMO services for construction projects of the Department.''

LABORATORY FUNDING PLAN

Pub. L. 106–60, title III, §310, Sept. 29, 1999, 113 Stat. 496, provided that:

''(a) None of the funds in this Act or any future Energy and Water Development Appropriations Act may be expended after December 31 of each year under a covered contract unless the funds are expended in accordance with a Laboratory Funding Plan that has been approved by the Secretary of Energy. At the beginning of each fiscal year, the Secretary shall issue directions to the laboratories for the programs, projects, and activities to be conducted in that fiscal year. The Secretary and the Laboratories shall devise a Laboratory Funding Plan that identifies the resources needed to carry out these programs, projects, and activities. Funds shall be released to the Laboratories only after the Secretary has approved the Laboratory Funding Plan. The Secretary of Energy may provide exceptions to this requirement as the Secretary considers appropriate.

''(b) For purposes of this section, 'covered contract' means a contract for the management and operation of the following laboratories: Argonne National Laboratory, Brookhaven National Laboratory, Idaho National Engineering and Environmental Laboratory, Lawrence Berkeley National Laboratory, Lawrence Livermore National Laboratory, Los Alamos National Laboratory, Oak Ridge National Laboratory, Pacific Northwest National Laboratory, and Sandia National Laboratories.''

TERMINATION OR CHANGES IN ACTIVITIES OF GOVERNMENT-OWNED AND CONTRACTOR-OPERATED FACILITIES, NATIONAL LABORATORIES, ETC.; REPORTS BY SECRETARY OF ENERGY CONCERNING PROPOSALS PRIOR TO IMPLEMENTATION; CONTENTS; SUBMISSION DATE

Pub. L. 95–238, title I, §104(c), Feb. 25, 1978, 92 Stat. 53, provided that: ''As part of the Department of Energy's responsibility to keep the Congress fully and currently informed, the Secretary shall make the following reports:

''(i) any proposal by the Secretary of the Department of Energy to terminate or make major changes in activities of the Government-owned and contractor-operated facilities, the national laboratories, energy research centers and the operations offices managing such laboratories, shall not be implemented until the Secretary transmits the proposal, together with all pertinent data, to the Committee on Science and Technology [now Committee on Science] of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, and waits a period of thirty calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees; and

''(ii) by January 31, 1978, the Secretary shall file a full and complete report on each such proposal which he has implemented, as described in the preceding paragraph, and any major program structure change with the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.''

§ 7257a. Laboratory-directed research and development programs

(a) Authority

Government-owned, contractor-operated laboratories that are funded out of funds available to the Department of Energy for national security programs are authorized to carry out laboratory-directed research and development.

(b) Regulations

The Secretary of Energy shall prescribe regulations for the conduct of laboratory-directed research and development at such laboratories.

(c) Funding

Of the funds provided by the Department of Energy to such laboratories for national security activities, the Secretary shall provide a specific amount, not to exceed 6 percent of such funds, to be used by such laboratories for laboratory-directed research and development.

(d) "Laboratory-directed research and development" defined

For purposes of this section, the term ''laboratory-directed research and development'' means research and development work of a creative and innovative nature which, under the regulations prescribed pursuant to subsection (b) of this section, is selected by the director of a laboratory for the purpose of maintaining the vitality of the laboratory in defense-related scientific disciplines.

(Pub. L. 101–510, div. C, title XXXI, § 3132, Nov. 5, 1990, 104 Stat. 1832.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1991, and not as part of the Department of Energy Organization Act which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7257c of this title.

§ 7257b. Annual report on expenditures of Department of Energy Laboratory Directed Research and Development Program

(1) Not later than February 1 each year, the Secretary of Energy shall submit to the congressional defense committees a report on the funds expended during the preceding fiscal year on activities under the Department of Energy Laboratory Directed Research and Development Program. The purpose of the report is to permit an assessment of the extent to which such activities support the national security mission of the Department of Energy.

(2) Each report shall be prepared by the officials responsible for Federal oversight of the funds expended on activities under the program.

(3) Each report shall set forth the criteria utilized by the officials preparing the report in determining whether or not the activities reviewed by such officials support the national security mission of the Department.

(Pub. L. 104–201, div. C, title XXXI, § 3136(b), Sept. 23, 1996, 110 Stat. 2831; Pub. L. 105–85, div. C, title XXXI, § 3137(c), Nov. 18, 1997, 111 Stat. 2039.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1997, and not as part of the Department of Energy Organization Act which comprises this chapter.

AMENDMENTS

1997—Par. (1). Pub. L. 105–85 substituted ''Not later than February 1 each year, the Secretary of Energy shall submit'' for ''The Secretary of Energy shall annually submit''.

''CONGRESSIONAL DEFENSE COMMITTEES'' DEFINED

Congressional defense committees means the Committees on Armed Services and Appropriations of the Senate and the House of Representatives, see section 3 of Pub. L. 104–201, 110 Stat. 2439, as amended by Pub. L. 106–65, div. A, title X, § 1067(5), Oct. 5, 1999, 113 Stat. 774.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7257c of this title.

§ 7257c. Limitations on use of funds for laboratory directed research and development purposes

(a) General limitations

(1) No funds authorized to be appropriated or otherwise made available to the Department of Energy in any fiscal year after fiscal year 1997 for weapons activities may be obligated or expended for activities under the Department of Energy Laboratory Directed Research and Development Program, or under any Department of Energy technology transfer program or cooperative research and development agreement, unless such activities support the national security mission of the Department of Energy.

(2) No funds authorized to be appropriated or otherwise made available to the Department of Energy in any fiscal year after fiscal year 1997 for environmental restoration, waste management, or nuclear materials and facilities stabilization may be obligated or expended for activities under the Department of Energy Laboratory Directed Research and Development Program, or under any Department of Energy technology transfer program or cooperative research and development agreement, unless such activities support the environmental restoration mission, waste management mission, or materials stabilization mission, as the case may be, of the Department of Energy.

(b) Limitation in fiscal year 1998 pending submittal of annual report

Not more than 30 percent of the funds authorized to be appropriated or otherwise made available to the Department of Energy in fiscal year 1998 for laboratory directed research and development may be obligated or expended for such research and development until the Secretary of Energy submits to the congressional defense committees the report required by section 7257b of this title in 1998.

(c) Omitted

(d) Assessment of funding level for laboratory directed research and development

The Secretary shall include in the report submitted under such section 7257b(1) of this title in 1998 an assessment of the funding required to

carry out laboratory directed research and development, including a recommendation for the percentage of the funds provided to Government-owned, contractor-operated laboratories for national security activities that should be made available for such research and development under section 7257a(c) of this title.

(e) "Laboratory directed research and development" defined

In this section, the term ''laboratory directed research and development'' has the meaning given that term in section 7257a(d) of this title.

(Pub. L. 105–85, div. C, title XXXI, § 3137, Nov. 18, 1997, 111 Stat. 2038.)

CODIFICATION

Section is comprised of section 3137 of Pub. L. 105–85. Subsec. (c) of section 3137 of Pub. L. 105–85 amended section 7257b of this title.

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1998, and not as part of the Department of Energy Organization Act which comprises this chapter.

''CONGRESSIONAL DEFENSE COMMITTEES'' DEFINED

Congressional defense committees means the Committees on Armed Services and Appropriations of the Senate and the House of Representatives, see section 3 of Pub. L. 105–85, 111 Stat. 1645, as amended by Pub. L. 106–65, div. A, title X, § 1067(4), Oct. 5, 1999, 113 Stat. 774.

§ 7258. Facilities construction

(a) Employees and dependents stationed at remote locations

As necessary and when not otherwise available, the Secretary is authorized to provide for, construct, or maintain the following for employees and their dependents stationed at remote locations:

(1) Emergency medical services and supplies;

(2) Food and other subsistence supplies;

(3) Messing facilities;

(4) Audio-visual equipment, accessories, and supplies for recreation and training;

(5) Reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) Living and working quarters and facilities; and

(7) Transportation of schoolage dependents of employees to the nearest appropriate educational facilities.

(b) Medical treatment at reasonable prices

The furnishing of medical treatment under paragraph (1) of subsection (a) of this section and the furnishing of services and supplies under paragraphs (2) and (3) of subsection (a) of this section shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Use of reimbursement proceeds

Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Secretary to pay directly the cost of such work or services, to repay or make advances to appropriations of funds which will initially bear all or a part of such cost, or to refund excess sums when necessary. Such payments may be credited to a working capital fund otherwise established by law, including the fund established pursuant to section 7263 of this title, and used under the law governing such fund, if the fund is available for use by the Department for performing the work or services for which payment is received.

(Pub. L. 95–91, title VI, § 648, Aug. 4, 1977, 91 Stat. 600.)

§ 7259. Use of facilities

(a) Facilities of United States and foreign governments

With their consent, the Secretary and the Federal Energy Regulatory Commission may, with or without reimbursement, use the research, equipment, and facilities of any agency or instrumentality of the United States or of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, or of any political subdivision thereof, or of any foreign government, in carrying out any function now or hereafter vested in the Secretary or the Commission.

(b) Facilities under custody of Secretary

In carrying out his functions, the Secretary, under such terms, at such rates, and for such periods not exceeding five years, as he may deem to be in the public interest, is authorized to permit the use by public and private agencies, corporations, associations, or other organizations or by individuals of any real property, or any facility, structure, or other improvement thereon, under the custody of the Secretary for Department purposes. The Secretary may require permittees under this section to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements involved to a satisfactory standard. This section shall not apply to excess property as defined in section 472(e) of title 40.

(c) Use of reimbursement proceeds

Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Secretary or the head of the agency or instrumentality of the United States involved, as the case may be, to pay directly the costs of the equipment, or facilities provided, to repay or make advances to appropriations or funds which do or will initially bear all or a part of such costs, or to refund excess sums when necessary, except that such proceeds may be credited to a working capital fund otherwise established by law, including the fund established pursuant to section 7263 of this title, and used under the law governing such fund, if the fund is available for use for providing the equipment or facilities involved.

(Pub. L. 95–91, title VI, § 649, Aug. 4, 1977, 91 Stat. 600.)

§ 7259a. Activities of Department of Energy facilities

(a) Research and activities on behalf of non-department persons and entities

(1) The Secretary of Energy may conduct research and other activities referred to in paragraph (2) at facilities of the Department of En-

ergy on behalf of other departments and agencies of the Government, agencies of State and local governments, and private persons and entities.

(2) The research and other activities that may be conducted under paragraph (1) are those which the Secretary is authorized to conduct by law, including research and activities authorized under the following provisions of law:

(A) The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

(B) The Energy Reorganization Act of 1974 [42 U.S.C. 5801 et seq.].

(C) The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.).

(b) Charges

(1) The Secretary shall impose on the department, agency, or person or entity for which research and other activities are carried out under subsection (a) of this section a charge for such research and activities in carrying out such research and activities, which shall include—

(A) the direct cost incurred in carrying out such research and activities; and

(B) the overhead cost, including site-wide indirect costs, associated with such research and activities.

(2)(A) Subject to subparagraph (B), the Secretary shall also impose on the department, agency, or person or entity concerned a Federal administrative charge (which includes any depreciation and imputed interest charges) in an amount not to exceed 3 percent of the full cost incurred in carrying out the research and activities concerned.

(B) The Secretary may waive the imposition of the Federal administrative charge required by subparagraph (A) in the case of research and other activities conducted on behalf of small business concerns, institutions of higher education, non-profit entities, and State and local governments.

(3) Not later than 2 years after October 17, 1998, the Secretary shall terminate any waiver of charges under section 33 of the Atomic Energy Act of 1954 (42 U.S.C. 2053) that were made before such date, unless the Secretary determines that such waiver should be continued.

(c) Pilot program of reduced facility overhead charges

(1) The Secretary may, with the cooperation of participating contractors of the contractor-operated facilities of the Department, carry out a pilot program under which the Secretary and such contractors reduce the facility overhead charges imposed under this section for research and other activities conducted under this section.

(2) The Secretary shall carry out the pilot program at contractor-operated facilities selected by the Secretary in consultation with the contractors concerned.

(3) The Secretary shall determine the facility overhead charges to be imposed under the pilot program at a facility based on a joint review by the Secretary and the contractor for the facility of all items included in the overhead costs of the facility in order to determine which items are appropriately incurred as facility overhead charges by the contractor in carrying out research and other activities at such facility under this section.

(4) The Secretary shall commence carrying out the pilot program under this subsection not later than October 1, 1999, and shall terminate the pilot program on September 30, 2003.

(5) Not later than January 31, 2003, the Secretary shall submit to Congress an interim report on the results of the pilot program under this subsection. The report shall include any recommendations for the extension or expansion of the pilot program, including the establishment of multiple rates of overhead charges for various categories of persons and entities seeking research and other activities in contractor-operated facilities of the Department.

(d) Applicability with respect to user fee practice

This section does not apply to the practice of the Department of Energy with respect to user fees at Department facilities.

(Pub. L. 105–261, div. C, title XXXI, § 3137, Oct. 17, 1998, 112 Stat. 2248.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in subsec. (a)(2)(A), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, and amended, which is classified generally to chapter 23 (§ 2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

The Energy Reorganization Act of 1974, referred to in subsec. (a)(2)(B), is Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233, as amended, which is classified principally to chapter 73 (§ 5801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The Federal Nonnuclear Energy Research and Development Act of 1974, referred to in subsec. (a)(2)(C), is Pub. L. 93–577, Dec. 31, 1974, 88 Stat. 1878, as amended, which is classified generally to chapter 74 (§ 5901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5901 of this title and Tables.

CODIFICATION

Section was enacted as part of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, and not as part of the Department of Energy Organization Act which comprises this chapter.

§ 7260. Field offices

The Secretary is authorized to establish, alter, consolidate or discontinue and to maintain such State, regional, district, local or other field offices as he may deem to be necessary to carry out functions vested in him.

(Pub. L. 95–91, title VI, § 650, Aug. 4, 1977, 91 Stat. 601.)

§ 7261. Acquisition of copyrights, patents, etc.

The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

(Pub. L. 95–91, title VI, § 651, Aug. 4, 1977, 91 Stat. 601.)

§ 7261a. Protection of sensitive technical information

(a) Property rights in inventions and discoveries; timely determination; reports to Congressional committees

(1) Whenever any contractor makes an invention or discovery to which the title vests in the Department of Energy pursuant to exercise of section 202(a)(ii) or (iv) of title 35, or pursuant to section 2182 of this title or section 5908 of this title in the course of or under any Government contract or subcontract of the Naval Nuclear Propulsion Program or the nuclear weapons programs or other atomic energy defense activities of the Department of Energy and the contractor requests waiver of any or all of the Government's property rights, the Secretary of Energy may decide to waive the Government's rights and assign the rights in such invention or discovery.

(2) Such decision shall be made within 150 days after the date on which a complete request for waiver of such rights has been submitted to the Secretary by the contractor. For purposes of this paragraph, a complete request includes such information, in such detail and form, as the Secretary by regulation prescribes as necessary to allow the Secretary to take into consideration the matters described in subsection (b) of this section in making the decision.

(3) If the Secretary fails to make the decision within such 150-day period, the Secretary shall submit to the Committees on Armed Services of the House of Representatives and the Senate, within 10 days after the end of the 150-day period, a report on the reasons for such failure. The submission of such report shall not relieve the Secretary of the requirement to make the decision under this section. The Secretary shall, at the end of each 30-day period after submission of the first report during which the Secretary continues to fail to make the decision required by this section, submit another report on the reasons for such failure to the committees listed in this paragraph.

(b) Matters to be considered

In making a decision under this section, the Secretary shall consider, in addition to the applicable policies of section 2182 of this title or subsections (c) and (d) of section 5908 of this title—

(1) whether national security will be compromised;

(2) whether sensitive technical information (whether classified or unclassified) under the Naval Nuclear Propulsion Program or the nuclear weapons programs or other atomic energy defense activities of the Department of Energy for which dissemination is controlled under Federal statutes and regulations will be released to unauthorized persons;

(3) whether an organizational conflict of interest contemplated by Federal statutes and regulations will result; and

(4) whether failure to assert such a claim will adversely affect the operation of the Naval Nuclear Propulsion Program or the nuclear weapons programs or other atomic energy defense activities of the Department of Energy.

(Pub. L. 99–661, div. C, title I, § 3131, Nov. 14, 1986, 100 Stat. 4062; Pub. L. 100–180, div. C, title III, § 3135(a), Dec. 4, 1987, 101 Stat. 1240.)

CODIFICATION

Section was enacted as part of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1987 and also as part of the National Defense Authorization Act for Fiscal Year 1987, and not as part of the Department of Energy Organization Act which comprises this chapter.

AMENDMENTS

1987—Subsec. (a). Pub. L. 100–180 designated existing provisions as par. (1), struck out at end ''Such decision shall be made within a reasonable time (which shall usually be six months from the date of the request by the contractor for assignment of such rights).'', and added pars. (2) and (3).

EFFECTIVE DATE OF 1987 AMENDMENT

Section 3135(b) of Pub. L. 100–180 provided that: ''Paragraphs (2) and (3) of section 3131(a) of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1987 [subsec. (a)(2), (3) of this section] (as added by subsection (a)) shall apply with respect to waiver requests submitted by contractors under that section after March 1, 1988.''

§ 7261b. Technology transfer to small businesses

(1) The Secretary of Energy shall establish a program to facilitate and encourage the transfer of technology to small businesses and shall issue guidelines relating to the program not later than May 1, 1993.

(2) For the purposes of this section, the term ''small business'' means a business concern that meets the applicable size standards prescribed pursuant to section 632(a) of title 15.

(Pub. L. 102–484, div. C, title XXXI, § 3135(b), Oct. 23, 1992, 106 Stat. 2641.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1993, and not as part of the Department of Energy Organization Act which comprises this chapter.

§ 7262. Repealed. Pub. L. 104–206, title V, § 502, Sept. 30, 1996, 110 Stat. 3002

Section, Pub. L. 95–91, title VI, § 652, Aug. 4, 1977, 91 Stat. 601, authorized Secretary to accept gifts, bequests, and devises of property for purpose of aiding or facilitating work of Department.

CODIFICATION

Pub. L. 104–206, which directed the repeal of 42 U.S.C. 7262, was executed by repealing section 652 of Pub. L. 95–91, which was classified to this section, to reflect the probable intent of Congress.

§ 7263. Capital fund

The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common

administrative services as he shall find to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its agencies; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are hereby authorized) and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain said fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which he determines will be performed through the fund. Appropriations to the fund, in such amounts as may be necessary to provide additional working capital, are authorized.

(Pub. L. 95–91, title VI, § 653, Aug. 4, 1977, 91 Stat. 601.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7258, 7259 of this title.

§ 7264. Seal of Department

The Secretary shall cause a seal of office to be made for the Department of such design as he shall approve and judicial notice shall be taken of such seal.

(Pub. L. 95–91, title VI, § 654, Aug. 4, 1977, 91 Stat. 602.)

§ 7265. Regional Energy Advisory Boards

(a) Establishment; membership

The Governors of the various States may establish Regional Energy Advisory Boards for their regions with such membership as they may determine.

(b) Observers

Representatives of the Secretary, the Secretary of Commerce, the Secretary of the Interior, the Chairman of the Council on Environmental Quality, the Commandant of the Coast Guard and the Administrator of the Environmental Protection Agency shall be entitled to participate as observers in the deliberations of any Board established pursuant to subsection (a) of this section. The Federal Cochairman of the Appalachian Regional Commission or any regional commission under title V of the Public Works and Economic Development Act [42 U.S.C. 3181 et seq.] shall be entitled to participate as an observer in the deliberations of any such Board which contains one or more States which are members of such Commission.

(c) Recommendations of Board

Each Board established pursuant to subsection (a) of this section may make such recommendations as it determines to be appropriate to programs of the Department having a direct effect on the region.

(d) Notice of reasons not to adopt recommendations

If any Regional Advisory Board makes specific recommendations pursuant to subsection (c) of this section, the Secretary shall, if such recommendations are not adopted in the implementation of the program, notify the Board in writing of his reasons for not adopting such recommendations.

(Pub. L. 95–91, title VI, § 655, Aug. 4, 1977, 91 Stat. 602.)

REFERENCES IN TEXT

The Public Works and Economic Development Act, referred to in subsec. (b), is Pub. L. 89–136, Aug. 26, 1965, 79 Stat. 552, as amended. Title V of the Public Works and Economic Development Act was classified generally to subchapter V (§ 3181 et seq.) of chapter 38 of this title prior to repeal by Pub. L. 97–35, title XVIII, § 1821(a)(8), Aug. 13, 1981, 95 Stat. 766. For complete classification of this Act to the Code, see Short Title note set out under section 3121 of this title and Tables.

§ 7266. Designation of conservation officers

The Secretary of Defense, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Secretary of Agriculture, the Secretary of the Interior, the United States Postal Service, and the Administrator of General Services shall each designate one Assistant Secretary or Assistant Administrator, as the case may be, as the principal conservation officer of such Department or of the Administration. Such designated principal conservation officer shall be principally responsible for planning and implementation of energy conservation programs by such Department or Administration and principally responsible for coordination with the Department of Energy with respect to energy matters. Each agency, Department or Administration required to designate a principal conservation officer pursuant to this section shall periodically inform the Secretary of the identity of such conservation officer, and the Secretary shall periodically publish a list identifying such officers.

(Pub. L. 95–91, title VI, § 656, Aug. 4, 1977, 91 Stat. 602.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8257 of this title.

§ 7267. Annual report

The Secretary shall, as soon as practicable after the end of each fiscal year, commencing with the first complete fiscal year following October 1, 1977, make a report to the President for submission to the Congress on the activities of the Department during the preceding fiscal year. Such report shall include a statement of the Secretary's goals, priorities, and plans for the Department, together with an assessment of the progress made toward the attainment of those goals, the effective and efficient management of the Department and progress made in coordination of its functions with other departments and agencies of the Federal Government. In addition, such report shall include the information required by section 774 of title 15, section 6325(c) of this title, section 10224(c) of this title, section 5877 of this title, and section 5914 of this title, and shall include:

(1) projected energy needs of the United States to meet the requirements of the general welfare of the people of the United States and the commercial and industrial life of the Nation, including a comprehensive summary of data pertaining to all fuel and energy needs of residents of the United States residing in—

(A) areas outside standard metropolitan statistical areas; and

(B) areas within such areas which are unincorporated or are specified by the Bureau of the Census, Department of Commerce, as rural areas;

(2) an estimate of (A) the domestic and foreign energy supply on which the United States will be expected to rely to meet such needs in an economic manner with due regard for the protection of the environment, the conservation of natural resources, and the implementation of foreign policy objectives, and (B) the quantities of energy expected to be provided by different sources (including petroleum, natural and synthetic gases, coal, uranium, hydroelectric, solar, and other means) and the expected means of obtaining such quantities;

(3) current and foreseeable trends in the price, quality, management, and utilization of energy resources and the effects of those trends on the social, environmental, economic, and other requirements of the Nation;

(4) a summary of research and development efforts funded by the Federal Government to develop new technologies, to forestall energy shortages, to reduce waste, to foster recycling, to encourage conservation practices, and to increase efficiency; and further such summary shall include a description of the activities the Department is performing in support of environmental, social, economic and institutional, biomedical, physical and safety research, development, demonstration, and monitoring activities necessary to guarantee that technological programs, funded by the Department, are undertaken in a manner consistent with and capable of maintaining or improving the quality of the environment and of mitigating any undesirable environmental and safety impacts;

(5) a review and appraisal of the adequacy and appropriateness of technologies, procedures, and practices (including competitive and regulatory practices) employed by Federal/State, and local governments and nongovernmental entities to achieve the purposes of this chapter;

(6) a summary of cooperative and voluntary efforts that have been mobilized to promote conservation and recycling, together with plans for such efforts in the succeeding fiscal year, and recommendations for changes in laws and regulations needed to encourage more conservation and recycling by all segments of the Nation's populace;

(7) a summary of substantive measures taken by the Department to stimulate and encourage the development of new manpower resources through the Nation's colleges and universities and to involve these institutions in the execution of the Department's research and development programs; and

(8) to the extent practicable, a summary of activities in the United States by companies or persons which are foreign owned or controlled and which own or control United States energy sources and supplies, including the magnitude of annual foreign direct investment in the energy sector in the United States and exports of energy resources from the United States by foreign owned or controlled business entities or persons, and such other related matters as the Secretary may deem appropriate.

(Pub. L. 95–91, title VI, § 657, Aug. 4, 1977, 91 Stat. 603; Pub. L. 104–66, title I, § 1052(g), Dec. 21, 1995, 109 Stat. 718.)

AMENDMENTS

1995—Pub. L. 104–66 inserted ''section 6325(c) of this title, section 10224(c) of this title,'' after ''section 774 of title 15,'' in introductory provisions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5562, 6806, 7135, 8235g of this title; title 15 section 780; title 22 section 3142.

§ 7268. Leasing report

The Secretary of the Interior shall submit to the Congress not later than one year after August 4, 1977, a report on the organization of the leasing operations of the Federal Government, together with any recommendations for reorganizing such functions may deem necessary or appropriate.

(Pub. L. 95–91, title VI, § 658, Aug. 4, 1977, 91 Stat. 604.)

§ 7269. Transfer of funds

The Secretary, when authorized in an appropriation Act, in any fiscal year, may transfer funds from one appropriation to another within the Department, except that no appropriation shall be either increased or decreased pursuant to this section by more than 5 per centum of the appropriation for such fiscal year.

(Pub. L. 95–91, title VI, § 659, Aug. 4, 1977, 91 Stat. 604.)

§ 7269a. Transfer of funds between appropriations for Department of Energy activities

Not to exceed 5 per centum of any appropriation made available for Department of Energy activities funded in this Act or subsequent Energy and Water Development Appropriations Acts may on and after October 2, 1992, be transferred between such appropriations, but no such appropriation, except as otherwise provided, shall be increased or decreased by more than 5 per centum by any such transfers, and any such proposed transfers shall be submitted promptly to the Committees on Appropriations of the House and Senate.

(Pub. L. 102–377, title III, § 302, Oct. 2, 1992, 106 Stat. 1339.)

CODIFICATION

Section was enacted as part of the Energy and Water Development Appropriations Act, 1993, and not as part of the Department of Energy Organization Act which comprises this chapter.

§ 7269b. Transfer of unexpended appropriation balances

The unexpended balances of prior appropriations provided for activities in this Act or subsequent Energy and Water Development Appropriations Acts may on and after October 2, 1992, be transferred to appropriation accounts for such activities established pursuant to this title.[1] Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

(Pub. L. 102–377, title III, § 303, Oct. 2, 1992, 106 Stat. 1339.)

REFERENCES IN TEXT

This title, referred to in text, is title III of Pub. L. 102–377, Oct. 2, 1992, 106 Stat. 1332. For complete classification of title III to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Energy and Water Development Appropriations Act, 1993, and not as part of the Department of Energy Organization Act which comprises this chapter.

§ 7270. Authorization of appropriations

Appropriations to carry out the provisions of this chapter shall be subject to annual authorization.

(Pub. L. 95–91, title VI, § 660, Aug. 4, 1977, 91 Stat. 604.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6247, 7351, 9009, 9312 of this title.

§ 7270a. Guards for Strategic Petroleum Reserve facilities

Under guidelines prescribed by the Secretary and concurred with by the Attorney General, employees of the Department of Energy and employees of contractors and subcontractors (at any tier) of the Department of Energy, while discharging their official duties of protecting the Strategic Petroleum Reserve (established under part B of title I of the Energy Policy and Conservation Act [42 U.S.C. 6231 et seq.]) or its storage or related facilities or of protecting persons upon the Strategic Petroleum Reserve or its storage or related facilities, may—

(1) carry firearms, if designated by the Secretary and qualified for the use of firearms under the guidelines; and

(2) arrest without warrant any person for an offense against the United States—

(A) in the case of a felony, if the employee has reasonable grounds to believe that the person—

(i) has committed or is committing a felony; and

(ii) is in or is fleeing from the immediate area of the felony; and

(B) in the case of a felony or misdemeanor, if the violation is committed in the presence of the employee.

(Pub. L. 95–91, title VI, § 661, as added Pub. L. 100–531, § 1(a), Oct. 25, 1988, 102 Stat. 2652.)

REFERENCES IN TEXT

The Energy Policy and Conservation Act, referred to in text, is Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 871, as amended. Part B of title I of the Act is classified generally to part B (§ 6231 et seq.) of subchapter I of chapter 77 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

§ 7270b. Trespass on Strategic Petroleum Reserve facilities

(a) The Secretary may issue regulations relating to the entry upon or carrying, transporting, or otherwise introducing or causing to be introduced any dangerous weapon, explosive, or other dangerous instrument or material likely to produce substantial injury or damage to persons or property into or onto the Strategic Petroleum Reserve, its storage or related facilities, or real property subject to the jurisdiction, administration, or in the custody of the Secretary under part B of title I of the Energy Policy and Conservation Act (42 U.S.C. 6231–6247). The Secretary shall post conspicuously, on the property subject to the regulations, notification that the property is subject to the regulations.

(b) Whoever willfully violates a regulation of the Secretary issued under subsection (a) of this section shall be guilty of a misdemeanor and punished upon conviction by a fine of not more than $5,000, imprisonment for not more than one year, or both.

(Pub. L. 95–91, title VI, § 662, as added Pub. L. 100–531, § 1(a), Oct. 25, 1988, 102 Stat. 2652.)

REFERENCES IN TEXT

The Energy Policy and Conservation Act, referred to in subsec. (a), is Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 871, as amended. Part B of title I of the Act is classified generally to part B (§ 6231 et seq.) of subchapter I of chapter 77 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

[1] See References in Text note below.

§ 7271. Common defense and security program requests of single authorization of appropriations

The Secretary shall submit to the Congress for fiscal year 1980, and for each subsequent fiscal year, a single request for authorizations for appropriations for all programs of the Department of Energy involving scientific research and development in support of the armed forces, military applications of nuclear energy, strategic and critical materials necessary for the common defense, and other programs which involve the common defense and security of the United States.

(Pub. L. 95–509, title II, § 208, Oct. 24, 1978, 92 Stat. 1779.)

CODIFICATION

Section was enacted as part of Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1979, and not as part of Department of Energy Organization Act which comprises this chapter.

NUCLEAR WEAPONS CAPITAL INVESTMENT REQUIREMENTS STUDY; SUBMITTAL TO CONGRESS

Section 209 of Pub. L. 95–509 directed Secretary to conduct a study of the status of all Government-owned, contractor-operated, plant, capital equipment, facilities, and utilities which support United States nuclear weapons program and submit results of study to Congress at same time that Department of Energy authorization request for fiscal year 1980 was submitted to Congress.

§ 7271a. Repealed. Pub. L. 105–85, div. C, title XXXI, § 3152(h), Nov. 18, 1997, 111 Stat. 2042

Section, Pub. L. 101–189, div. C, title XXXI, § 3143, Nov. 29, 1989, 103 Stat. 1681, related to major Department of Energy national security programs.

§ 7271b. Repealed. Pub. L. 106–65, div. C, title XXXII, § 3294(f), Oct. 5, 1999, 113 Stat. 970

Section, Pub. L. 104–201, div. C, title XXXI, § 3155, Sept. 23, 1996, 110 Stat. 2841, related to requirement for annual five-year budget for national security programs of Department of Energy.

EFFECTIVE DATE OF REPEAL

Repeal effective Mar. 1, 2000, see section 3299 of Pub. L. 106–65, set out as an Effective Date note under section 2401 of Title 50, War and National Defense.

§ 7271c. Repealed. Pub. L. 105–85, div. C, title XXXI, § 3152(b), Nov. 18, 1997, 111 Stat. 2042

Section, Pub. L. 104–201, div. C, title XXXI, § 3156, Sept. 23, 1996, 110 Stat. 2841, related to requirements for Department of Energy weapons activities budgets for fiscal years after fiscal year 1997.

§ 7272. Restriction on licensing requirement for certain defense activities and facilities

None of the funds authorized to be appropriated by this or any other Act may be used for any purpose related to licensing of any defense activity or facility of the Department of Energy by the Nuclear Regulatory Commission.

(Pub. L. 96–540, title II, § 210, Dec. 17, 1980, 94 Stat. 3202.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 96–540, Dec. 17, 1980, 94 Stat. 3197, known as the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981, which insofar as classified to the Code, enacted sections 7272 and 7273 of this title.

CODIFICATION

Section was enacted as part of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981, and not as part of the Department of Energy Organization Act which comprises this chapter.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following appropriations act:
Pub. L. 96–164, title II, § 210, Dec. 29, 1979, 93 Stat. 1264.

TRANSFER OF FUNCTIONS

For transfer of certain functions from Nuclear Regulatory Commission to Chairman thereof, see Reorg. Plan No. 1 of 1980, 45 F.R. 40561, 94 Stat. 3585, set out as a note under section 5841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7273 of this title.

§ 7273. Restriction on use of funds to pay penalties under Clean Air Act

None of the funds authorized to be appropriated by this or any other Act may be used to pay any penalty, fine, forfeiture, or settlement resulting from a failure to comply with the Clean Air Act (42 U.S.C. 7401 et seq.) with respect to any defense activity of the Department of Energy if (1) the Secretary finds that compliance is physically impossible within the time prescribed for compliance, or (2) the President has specifically requested appropriations for compliance and the Congress has failed to appropriate funds for such purpose.

(Pub. L. 96–540, title II, § 211, Dec. 17, 1980, 94 Stat. 3203.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 96–540, Dec. 17, 1980, 94 Stat. 3197, known as the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981, which insofar as classified to the Code, enacted sections 7272 and 7273 of this title.

The Clean Air Act, referred to in text, is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§ 7401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of this title and Tables.

CODIFICATION

Section was enacted as part of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981, and not as part of the Department of Energy Organization Act which comprises this chapter.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following appropriations act:
Pub. L. 96–164, title II, § 211, Dec. 29, 1979, 93 Stat. 1264.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7272 of this title.

§ 7273a. Restriction on use of funds to pay penalties under environmental laws

(a) Restriction

Funds appropriated to the Department of Energy for the Naval Nuclear Propulsion Program

or the nuclear weapons programs or other atomic energy defense activities of the Department of Energy may not be used to pay a penalty, fine, or forfeiture in regard to a defense activity or facility of the Department of Energy due to a failure to comply with any environmental requirement.

(b) Exception

Subsection (a) of this section shall not apply with respect to an environmental requirement if—

(1) the President fails to request funds for compliance with the environmental requirement; or

(2) the Congress has appropriated funds for such purpose (and such funds have not been sequestered, deferred, or rescinded) and the Secretary of Energy fails to use the funds for such purpose.

(Pub. L. 99–661, div. C, title I, § 3132, Nov. 14, 1986, 100 Stat. 4063.)

CODIFICATION

Section was enacted as part of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1987 and also as part of the National Defense Authorization Act for Fiscal Year 1987, and not as part of the Department of Energy Organization Act which comprises this chapter.

§ 7273b. Security investigations

(1) No funds appropriated to the Department of Energy may be obligated or expended for the conduct of an investigation by the Department of Energy or any other Federal department or agency for purposes of determining whether to grant a security clearance to an individual or a facility unless the Secretary of Energy determines both of the following:

(A) That a current, complete investigation file is not available from any other department or agency of the Federal government with respect to that individual or facility.

(B) That no other department or agency of the Federal government is conducting an investigation with respect to that individual or facility that could be used as the basis for determining whether to grant the security clearance.

(2) For purposes of paragraph (1)(A), a current investigation file is a file on an investigation that has been conducted within the past five years.

(Pub. L. 101–510, div. C, title XXXI, § 3104(d), Nov. 5, 1990, 104 Stat. 1828.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1991, and not as part of the Department of Energy Organization Act which comprises this chapter.

§ 7273c. International cooperative stockpile stewardship

(a) Funding prohibition

No funds authorized to be appropriated or otherwise available to the Department of Energy for any fiscal year may be obligated or expended to conduct any activities associated with international cooperative stockpile stewardship.

(b) Exceptions

Subsection (a) of this section does not apply to the following:

(1) Activities conducted between the United States and the United Kingdom.

(2) Activities conducted between the United States and France.

(3) Activities carried out under title XIV of this Act relating to cooperative threat reduction with states of the former Soviet Union.

(Pub. L. 105–85, div. C, title XXXI, § 3133, Nov. 18, 1997, 111 Stat. 2036; Pub. L. 105–261, div. A, title X, § 1069(b)(3), div. C, title XXXI, § 3131, Oct. 17, 1998, 112 Stat. 2136, 2246.)

REFERENCES IN TEXT

Title XIV of this Act, referred to in subsec. (b)(3), is title XIV of Pub. L. 105–85, div. A, Nov. 18, 1997, 111 Stat. 1958, which is not classified to the Code.

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1998, and not as part of the Department of Energy Organization Act which comprises this chapter.

SIMILAR PROVISIONS

Provisions similar to those in this section were contained in the following prior authorization act:

Pub. L. 104–201, div. C, title XXXI, § 3138, Sept. 23, 1996, 110 Stat. 2830.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–261, § 3131, substituted ''for any fiscal year'' for ''for fiscal year 1998''.

Subsec. (b)(3). Pub. L. 105–261, § 1069(b)(3), substituted ''XIV'' for ''III''.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–261, div. A, title X, § 1069(b), Oct. 17, 1998, 112 Stat. 2136, provided that the amendment made by that section is effective as of Nov. 18, 1997, and as if included in the National Defense Authorization Act for Fiscal Year 1998, Pub. L. 105–85, as enacted.

§ 7274. Environmental impact statements relating to defense facilities of Department of Energy

(1) The Secretary may not proceed with the preparation of an environmental impact statement relating to the construction or operation of a defense facility of the Department of Energy if the estimated cost of preparing such statement exceeds $250,000 unless—

(A) the Secretary has notified the Committees on Armed Services of the Senate and the House of Representatives of his intent to prepare such statement and a period of thirty days has expired after the date on which such notice was received by such committees; or

(B) the Secretary has received from each such committee, before the expiration of such thirty-day period, a written notice that the committee agrees with the decision of the Secretary regarding the preparation of such statement.

(2) The provisions of paragraph (1) shall not apply in the case of any environmental impact statement on which the Secretary began preparation before December 4, 1981.

(Pub. L. 97–90, title II, § 212(b), Dec. 4, 1981, 95 Stat. 1171.)

CODIFICATION

Section was enacted as part of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1982, and not as part of the Department of Energy Organization Act which comprises this chapter.

NATIONAL ENVIRONMENTAL POLICY ACT COMPLIANCE REPORT REQUIREMENT

Pub. L. 101–510, div. C, title XXXI, § 3133, Nov. 5, 1990, 104 Stat. 1832, directed Secretary of Energy, not later than 30 days after the end of each quarter of fiscal years 1991 and 1992, to submit to Congress a brief report on Department of Energy's compliance with National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), which was to contain a brief description of each proposed action to be taken by the Department of Energy, the environmental impact of which was not clearly insignificant, and a description of the steps taken or proposed to be taken by the Department of Energy to assess the environmental impact of the proposed action, and if the Secretary found that the proposed action of the Department of Energy would have no significant impact, the Secretary was to include the rationale for that determination.

§ 7274a. Defense waste cleanup technology program

(a) Establishment of program

The Secretary of Energy shall establish and carry out a program of research for the development of technologies useful for (1) the reduction of environmental hazards and contamination resulting from defense waste, and (2) environmental restoration of inactive defense waste disposal sites.

(b) Coordination of research activities

(1) In order to ensure nonduplication of research activities by the Department of Energy regarding technologies referred to in subsection (a) of this section, the Secretary shall coordinate the research activities of the Department of Energy relating to the development of such technologies with the research activities of the Environmental Protection Agency, the Department of Defense, and other appropriate Federal agencies relating to the same matter.

(2) To the extent that funds are otherwise available for obligation, the Secretary may enter into cooperative agreements with the Environmental Protection Agency, the Department of Defense, and other appropriate Federal agencies for the conduct of research for the development of technologies referred to in subsection (a) of this section.

(c) Definitions

As used in this section:

(1) The term ''defense waste'' means waste, including radioactive waste, resulting primarily from atomic energy defense activities of the Department of Energy.

(2) The term ''inactive defense waste disposal site'' means any site (including any facility) under the control or jurisdiction of the Secretary of Energy which is used for the disposal of defense waste and is closed to the disposal of additional defense waste, including any site that is subject to decontamination and decommissioning.

(Pub. L. 101–189, div. C, title XXXI, § 3141, Nov. 29, 1989, 103 Stat. 1679; Pub. L. 105–85, div. C, title XXXI, § 3152(g), Nov. 18, 1997, 111 Stat. 2042.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Years 1990 and 1991, and not as part of the Department of Energy Organization Act which comprises this chapter.

AMENDMENTS

1997—Subsecs. (c), (d). Pub. L. 105–85 redesignated subsec. (d) as (c) and struck out former subsec. (c) which required Secretary of Energy to submit to Congress not later than Apr. 1 each year a report on research activities of Department of Energy for development of technologies referred to in subsec. (a).

§ 7274b. Reports in connection with permanent closures of Department of Energy defense nuclear facilities

(a) Training and job placement services plan

Not later than 120 days before a Department of Energy defense nuclear facility (as defined in section 2286g of this title) permanently ceases all production and processing operations, the Secretary of Energy must submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a discussion of the training and job placement services needed to enable the employees at such facility to obtain employment in the environmental remediation and cleanup activities at such facility. The discussion shall include the actions that should be taken by the contractor operating and managing such facility to provide retraining and job placement services to employees of such contractor.

(b) Closure report

Upon the permanent cessation of production operations at a Department of Energy defense nuclear facility, the Secretary of Energy shall submit to Congress a report containing—

(1) a complete survey of environmental problems at the facility;

(2) budget quality data indicating the cost of environmental restoration and other remediation and cleanup efforts at the facility; and

(3) a discussion of the proposed cleanup schedule.

(Pub. L. 101–189, div. C, title XXXI, § 3156, Nov. 29, 1989, 103 Stat. 1683.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Years 1990 and 1991, and not as part of the Department of Energy Organization Act which comprises this chapter.

§ 7274c. Report on environmental restoration expenditures

Each year, at the same time the President submits to Congress the budget for a fiscal year (pursuant to section 1105 of title 31), the Secretary of Energy shall submit to Congress a report on how the environmental restoration and waste management funds for defense activities of the Department of Energy were expended during the fiscal year preceding the fiscal year during which the budget is submitted. The report shall include details on expenditures by operations office, installation, budget category, and activity. The report also shall include any schedule changes or modifications to planned

activities for the fiscal year in which the budget is submitted.

(Pub. L. 101–510, div. C, title XXXI, § 3134, Nov. 5, 1990, 104 Stat. 1833.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1991, and not as part of the Department of Energy Organization Act which comprises this chapter.

DEPARTMENT OF ENERGY MANAGEMENT PLAN FOR ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT ACTIVITIES

Section 3135 of Pub. L. 101–510 provided that:

''(a) PLAN.—The Secretary of Energy shall develop a comprehensive five-year plan for the management of environmental restoration and waste management activities at facilities under the jurisdiction of the Department of Energy.

''(b) REPORT.—Not later than June 1, 1991, the Secretary of Energy shall submit to Congress a report on the management plan developed under subsection (a). The report shall include the following:

''(1) A description of management capabilities necessary to carry out environmental programs covered by the management plan for the next five years.

''(2) A description of current Department of Energy management capabilities and inadequacies.

''(3) A description of the technical resources, including staff and management information systems, needed to carry out the management plan.

''(4) A description of assistance from other Federal agencies and private contractors included in the management plan.

''(5) A description of the cost verification and quality control elements included in the management plan.''

§ 7274d. Worker protection at nuclear weapons facilities

(a) Training grant program

(1) The Secretary of Energy is authorized to award grants to organizations referred to in paragraph (2) in order for such organizations—

(A) to provide training and education to persons who are or may be engaged in hazardous substance response or emergency response at Department of Energy nuclear weapons facilities; and

(B) to develop curricula for such training and education.

(2)(A) Subject to subparagraph (B), the Secretary is authorized to award grants under paragraph (1) to non-profit organizations that have demonstrated (as determined by the Secretary) capabilities in—

(i) implementing and conducting effective training and education programs relating to the general health and safety of workers; and

(ii) identifying, and involving in training, groups of workers whose duties include hazardous substance response or emergency response.

(B) The Secretary shall give preference in the award of grants under this section to employee organizations and joint labor-management training programs that are grant recipients under section 9660a of this title.

(3) An organization awarded a grant under paragraph (1) shall carry out training, education, or curricula development pursuant to Department of Energy orders relating to employee safety training, including orders numbered 5480.4 and 5480.11.

(b) Enforcement of employee safety standards

(1) Subject to paragraph (2), the Secretary shall assess civil penalties against any contractor of the Department of Energy who (as determined by the Secretary)—

(A) employs individuals who are engaged in hazardous substance response or emergency response at Department of Energy nuclear weapons facilities; and

(B) fails (i) to provide for the training of such individuals to carry out such hazardous substance response or emergency response, or (ii) to certify to the Department of Energy that such employees are adequately trained for such response pursuant to orders issued by the Department of Energy relating to employee safety training (including orders numbered 5480.4 and 5480.11).

(2) Civil penalties assessed under this subsection may not exceed $5,000 for each day in which a failure referred to in paragraph (1)(B) occurs.

(c) Regulations

The Secretary shall prescribe regulations to carry out this section.

(d) "Hazardous substance" defined

For the purposes of this section, the term ''hazardous substance'' includes radioactive waste and mixed radioactive and hazardous waste.

(e) Funding

Of the funds authorized to be appropriated pursuant to section 3101(9)(A), $10,000,000 may be used for the purpose of carrying out this section.

(Pub. L. 102–190, div. C, title XXXI, § 3131, Dec. 5, 1991, 105 Stat. 1571.)

REFERENCES IN TEXT

Section 3101(9)(A), referred to in subsec. (e), is section 3101(9)(A) of Pub. L. 102–190, div. C, title XXXI, Dec. 5, 1991, 105 Stat. 1564, which is not classified to the Code.

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Years 1992 and 1993, and not as part of the Department of Energy Organization Act which comprises this chapter.

§ 7274e. Scholarship and fellowship program for environmental restoration and waste management

(a) Establishment

The Secretary of Energy shall conduct a scholarship and fellowship program for the purpose of enabling individuals to qualify for employment in environmental restoration and waste management positions in the Department of Energy. The scholarship and fellowship program shall be known as the ''Marilyn Lloyd Scholarship and Fellowship Program''.

(b) Eligibility

To be eligible to participate in the scholarship and fellowship program, an individual must—

(1) be accepted for enrollment or be currently enrolled as a full-time student at an in-

stitution of higher education (as defined in section 101 of the Higher Education Act of 1965 [20 U.S.C. 1001]);

(2) be pursuing a program of education that leads to an appropriate higher education degree in a qualifying field of study, as determined by the Secretary;

(3) sign an agreement described in subsection (c) of this section;

(4) be a citizen or national of the United States or be an alien lawfully admitted to the United States for permanent residence; and

(5) meet such other requirements as the Secretary prescribes.

(c) Agreement

An agreement between the Secretary and a participant in the scholarship and fellowship program established under this section shall be in writing, shall be signed by the participant, and shall include the following provisions:

(1) The Secretary's agreement to provide the participant with educational assistance for a specified number of school years (not exceeding 5) during which the participant is pursuing a program of education in a qualifying field of study. The assistance may include payment of tuition, fees, books, laboratory expenses, and a stipend.

(2) The participant's agreement (A) to accept such educational assistance, (B) to maintain enrollment and attendance in the program of education until completed, (C) while enrolled in such program, to maintain satisfactory academic progress as prescribed by the institution of higher education in which the participant is enrolled, and (D) after completion of the program of education, to serve as a full-time employee in an environmental restoration or waste management position in the Department of Energy for a period of 12 months for each school year or part thereof for which the participant is provided a scholarship or fellowship under the program established under this section.

(d) Repayment

(1) Any person participating in a scholarship or fellowship program established under this section shall agree to pay to the United States the total amount of educational assistance provided to the person under the program, plus interest at the rate prescribed by paragraph (4), if the person—

(A) does not complete the course of education as agreed to pursuant to subsection (c) of this section, or completes the course of education but declines to serve in a position in the Department of Energy as agreed to pursuant to subsection (c) of this section; or

(B) is voluntarily separated from service or involuntarily separated for cause from the Department of Energy before the end of the period for which the person has agreed to continue in the service of the Department of Energy.

(2) If an employee fails to fulfill his agreement to pay to the Government the total amount of educational assistance provided to the person under the program, plus interest at the rate prescribed by paragraph (4), a sum equal to the amount of the educational assistance (plus such interest) is recoverable by the Government from the person or his estate by—

(A) in the case of a person who is an employee, setoff against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the Government; and

(B) such other method as is provided by law for the recovery of amounts owing to the Government.

(3) The Secretary may waive in whole or in part a required repayment under this subsection if the Secretary determines the recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

(4) For purposes of repayment under this section, the total amount of educational assistance provided to a person under the program shall bear interest at the applicable rate of interest under section 427A(c) of the Higher Education Act of 1965 (20 U.S.C. 1077a(c)).

(e) Preference for cooperative education students

In evaluating applicants for award of scholarships and fellowships under the program, the Secretary of Energy may give a preference to an individual who is enrolled in, or accepted for enrollment in, an educational institution that has a cooperative education program with the Department of Energy.

(f) Coordination of benefits

A scholarship or fellowship awarded under this section shall be taken into account in determining the eligibility of the student for Federal student financial assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq. [and 42 U.S.C. 2751 et seq.]).

(g) Award of scholarships and fellowships

(1) Subject to paragraph (2), the Secretary shall award at least 20 scholarships (for undergraduate students) and 20 fellowships (for graduate students) during fiscal year 1992.

(2) The requirement to award 20 scholarships and 20 fellowships under paragraph (1) applies only to the extent there is a sufficient number of applicants qualified for such awards.

(h) Report to Congress

Not later than January 1, 1993, the Secretary of Energy shall submit to Congress a report on activities undertaken under the program and recommendations for future activities under the program.

(i) Funding

Of the funds authorized to be appropriated pursuant to section 3101(9)(B), $1,000,000 may be used for the purpose of carrying out this section.

(Pub. L. 102–190, div. C, title XXXI, §3132, Dec. 5, 1991, 105 Stat. 1572; Pub. L. 103–337, div. C, title XXXI, §3156(b)(1), Oct. 5, 1994, 108 Stat. 3092; Pub. L. 105–244, title I, §102(a)(13)(F), Oct. 7, 1998, 112 Stat. 1620.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (f), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as

amended. Title IV of the Act is classified generally to subchapter IV (§ 1070 et seq.) of chapter 28 of Title 20, Education, and part C (§ 2751 et seq.) of subchapter I of chapter 34 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

Section 3101(9)(B), referred to in subsec. (i), is section 3101(9)(B) of Pub. L. 102–190, div. C, title XXXI, Dec. 5, 1991, 105 Stat. 1564, which is not classified to the Code.

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Years 1992 and 1993, and not as part of the Department of Energy Organization Act which comprises this chapter.

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–244 substituted ''section 101 of the Higher Education Act of 1965'' for ''section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))''.

1994—Subsec. (a). Pub. L. 103–337 inserted at end ''The scholarship and fellowship program shall be known as the 'Marilyn Lloyd Scholarship and Fellowship Program'.''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 3156(b)(2) of Pub. L. 103–337 provided that: ''The amendment made by paragraph (1) [amending this section] shall take effect on January 3, 1995.''

§ 7274f. Defense Environmental Restoration and Waste Management Account

(a) Establishment

There is hereby established in the Treasury of the United States for the Department of Energy an account to be known as the ''Defense Environmental Restoration and Waste Management Account'' (hereafter in this section referred to as the ''Account'').

(b) Amounts in Account

All sums appropriated to the Department of Energy for environmental restoration and waste management at defense nuclear facilities shall be credited to the Account. Such appropriations shall be authorized annually by law. To the extent provided in appropriations Acts, amounts in the Account shall remain available until expended.

(Pub. L. 102–190, div. C, title XXXI, § 3134, Dec. 5, 1991, 105 Stat. 1575.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Years 1992 and 1993, and not as part of the Department of Energy Organization Act which comprises this chapter.

§ 7274g. Environmental restoration and waste management five-year plan and budget reports

(a) Five-year plan

(1) Not later than September 1 of each year, the Secretary of Energy shall issue a plan for environmental restoration and waste management activities to be conducted, during the five-year period beginning on October 1 of the next calendar year, at all facilities owned or operated by the Department of Energy except defense nuclear facilities. The plan also shall contain a description of environmental restoration and waste management activities conducted during the fiscal year in which the plan is submitted and of such activities to be conducted during the fiscal year beginning on October 1 of the same calendar year. Such five-year plan shall be designed to complete environmental restoration at all such Department of Energy facilities not later than the year 2019.

(2) The Secretary shall prepare each annual five-year plan in a preliminary form at least four months before the date on which that plan is required to be issued under paragraph (1). The preliminary plan shall contain the matters referred to in paragraph (4) (other than the matters referred to in subparagraph (J) of that paragraph). The Secretary shall provide the preliminary plan to the Governors and Attorneys General of affected States, appropriate representatives of affected Indian tribes, and the public for coordination, review, and comment.

(3) At the same time the Secretary issues an annual five-year plan under paragraph (1), the Secretary shall submit the plan to the President and Congress, publish a notice of the issuance of the plan in the Federal Register, and make the plan available to the Governors and Attorneys General of affected States, appropriate representatives of affected Indian tribes, and the public.

(4) The annual five-year plan, and the actions and other matters contained in the plan, shall be in accordance with all laws, regulations, permits, orders, and agreements. The plan shall include, with respect to the Department of Energy facilities required by paragraph (1) to be covered by the plan, the following matters:

(A) A description of the actions, including identification of specific projects, necessary to maintain or achieve compliance with Federal, State, or local environmental laws, regulations, permits, orders, and agreements.

(B) A description of the actions, including identification of specific projects, to be taken at each Department of Energy facility in order to implement environmental restoration activities planned for each such facility.

(C) A description of research and development activities for the expeditious and efficient environmental restoration of such facilities.

(D) A description of the technologies and facilities necessary to carry out the environmental restoration activities.

(E) A description of the waste management activities, including identification of specific projects, necessary to continue to operate the Department of Energy facilities or to decontaminate and decommission the facilities, as the case may be.

(F) A description of research and development activities for waste management.

(G) A description of the technologies and facilities necessary to carry out the waste management activities.

(H) A description of activities and practices that the Secretary is undertaking or plans to

undertake to minimize the generation of waste.

(I) The estimated costs of, and personnel required for, each project, action, or activity contained in the plan.

(J) A description of the respects in which the plan differs from the preliminary form of that plan issued pursuant to paragraph (2), together with the reasons for any differences.

(K) A discussion of the implementation of the preceding annual five-year plan.

(L) Such other matters as the Secretary finds appropriate and in the public interest.

(5) The Secretary shall consult with the Administrator of the Environmental Protection Agency, Governors and Attorneys General of affected States, and appropriate representatives of affected Indian tribes in the preparation of the plan and the preliminary form of the plan pursuant to paragraphs (1) and (2). The Secretary shall include as an appendix to the plan (A) all comments submitted on the preliminary form of the plan by the Administrator, Governors and Attorneys General of affected States, and affected Indian tribes, and (B) a summary of comments submitted by the public.

(6) The first annual five-year plan issued pursuant to this section shall be issued in 1992.

(b) Treatment of plans under section 4332

The development and adoption of any part of any plan (including any preliminary form of any such plan) under subsection (a) of this section shall not be considered a major Federal action for the purposes of subparagraph (C), (E), or (F) of section 4332(2) of this title. Nothing in this subsection shall affect the Department of Energy's ongoing preparation of a programmatic environmental impact statement on environmental restoration and waste management.

(c) Grants

The Secretary of Energy is authorized to award grants to, and enter into cooperative agreements with, affected States and affected Indian tribes to assist such States and tribes in participating in the development of the annual five-year plan (including the preliminary form of such plan).

(d) Funding

Of the funds authorized to be appropriated pursuant to section 3103, $20,000,000 may be used for the purpose of carrying out subsection (c) of this section.

(e) Budget reports

Each year, at the same time the President submits to Congress the budget for a fiscal year (pursuant to section 1105 of title 31), the President shall submit to Congress a description of proposed activities and funding levels contained in the annual five-year plan (issued, pursuant to subsection (a)(1) of this section, in the year preceding the year in which the budget is submitted to Congress) that are not included in the budget or are included in the budget in a different form or at a different funding level, together with the reasons for such differences.

(Pub. L. 102–190, div. C, title XXXI, §3135, Dec. 5, 1991, 105 Stat. 1575; Pub. L. 103–337, div. C, title XXXI, §3160(a), Oct. 5, 1994, 108 Stat. 3094.)

REFERENCES IN TEXT

Section 3103, referred to in subsec. (d), is section 3103 of Pub. L. 102–190, div. C, title XXXI, Dec. 5, 1991, 105 Stat. 1566, which is not classified to the Code.

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Years 1992 and 1993, and not as part of the Department of Energy Organization Act which comprises this chapter.

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103–337, §3160(a)(1), substituted ''all facilities owned or operated by the Department of Energy except defense nuclear facilities'' for ''(A) defense nuclear facilities and (B) all other facilities owned or operated by the Department of Energy'' in first sentence and inserted ''such'' after ''restoration at all'' in third sentence.

Subsec. (a)(4). Pub. L. 103–337, §3160(a)(2), substituted ''The plan shall include, with respect to the Department of Energy facilities required by paragraph (1) to be covered by the plan, the following matters:'' for ''The plan shall contain the following matters:'' in introductory provisions.

Subsec. (a)(6), (7). Pub. L. 103–337, §3160(a)(3), (4), redesignated par. (7) as (6) and struck out former par. (6) which read as follows: ''The Secretary shall include in the annual five-year plan issued in 1992 a discussion of the feasibility and need, if any, for the establishment of a contingency fund in the Department of Energy to provide funds necessary to meet the requirements in environmental laws, to remove an immediate threat to worker or public health and safety, to prevent or improve a condition where postponement of activity would lead to deterioration of the environment, and to undertake additional environmental restoration activities at Department of Energy defense nuclear facilities that are not provided for in the budgets for fiscal years in which it is necessary to meet such requirements or undertake such activities.''

PUBLIC PARTICIPATION IN PLANNING

Section 3160(e) of Pub. L. 103–337 provided that: ''The Secretary of Energy shall consult with the Administrator of the Environmental Protection Agency, the Attorney General, Governors and Attorneys General of affected States, appropriate representatives of affected Indian tribes, and interested members of the public in any planning conducted by the Secretary for environmental restoration and waste management at Department of Energy defense nuclear facilities.''

§ 7274h. Department of Energy defense nuclear facilities workforce restructuring plan

(a) In general

Upon determination that a change in the workforce at a defense nuclear facility is necessary, the Secretary of Energy (hereinafter in sections 7274h to 7274j of this title referred to as the ''Secretary'') shall develop a plan for restructuring the workforce for the defense nuclear facility that takes into account—

(1) the reconfiguration of the defense nuclear facility; and

(2) the plan for the nuclear weapons stockpile that is the most recently prepared plan at the time of the development of the plan referred to in this subsection.

(b) Consultation

(1) In developing a plan referred to in subsection (a) of this section and any updates of the plan under subsection (e) of this section, the Secretary shall consult with the Secretary of

Labor, appropriate representatives of local and national collective-bargaining units of individuals employed at Department of Energy defense nuclear facilities, appropriate representatives of departments and agencies of State and local governments, appropriate representatives of State and local institutions of higher education, and appropriate representatives of community groups in communities affected by the restructuring plan.

(2) The Secretary shall determine appropriate representatives of the units, governments, institutions, and groups referred to in paragraph (1).

(c) Objectives

In preparing the plan required under subsection (a) of this section, the Secretary shall be guided by the following objectives:

(1) Changes in the workforce at a Department of Energy defense nuclear facility—

(A) should be accomplished so as to minimize social and economic impacts;

(B) should be made only after the provision of notice of such changes not later than 120 days before the commencement of such changes to such employees and the communities in which such facilities are located; and

(C) should be accomplished, when possible, through the use of retraining, early retirement, attrition, and other options that minimize layoffs.

(2) Employees whose employment in positions at such facilities is terminated shall, to the extent practicable, receive preference in any hiring of the Department of Energy (consistent with applicable employment seniority plans or practices of the Department of Energy and with section 3152 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1682)).

(3) Employees shall, to the extent practicable, be retrained for work in environmental restoration and waste management activities at such facilities or other facilities of the Department of Energy.

(4) The Department of Energy should provide relocation assistance to employees who are transferred to other Department of Energy facilities as a result of the plan.

(5) The Department of Energy should assist terminated employees in obtaining appropriate retraining, education, and reemployment assistance (including employment placement assistance).

(6) The Department of Energy should provide local impact assistance to communities that are affected by the restructuring plan and coordinate the provision of such assistance with—

(A) programs carried out by the Secretary of Labor under the Job Training Partnership Act [29 U.S.C. 1501 et seq.] or title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.];

(B) programs carried out pursuant to the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990 (division D of Public Law 101–510; 10 U.S.C. 2391 note); and

(C) programs carried out by the Department of Commerce pursuant to title IX of the Public Works and Economic Development Act of 1965.[1]

(d) Implementation

The Secretary shall, subject to the availability of appropriations for such purpose, work on an ongoing basis with representatives of the Department of Labor, workforce bargaining units, and States and local communities in carrying out a plan required under subsection (a) of this section.

(e) Plan updates

Not later than one year after issuing a plan referred to in subsection (a) of this section and on an annual basis thereafter, the Secretary shall issue an update of the plan. Each updated plan under this subsection shall—

(1) be guided by the objectives referred to in subsection (c) of this section, taking into account any changes in the function or mission of the Department of Energy defense nuclear facilities and any other changes in circumstances that the Secretary determines to be relevant;

(2) contain an evaluation by the Secretary of the implementation of the plan during the year preceding the report; and

(3) contain such other information and provide for such other matters as the Secretary determines to be relevant.

(f) Submittal to Congress

(1) The Secretary shall submit to Congress a plan referred to in subsection (a) of this section with respect to a defense nuclear facility within 90 days after the date on which a notice of changes described in subsection (c)(1)(B) of this section is provided to employees of the facility, or 90 days after October 23, 1992, whichever is later.

(2) The Secretary shall submit to Congress any updates of the plan under subsection (e) of this section immediately upon completion of any such update.

(Pub. L. 102–484, div. C, title XXXI, § 3161, Oct. 23, 1992, 106 Stat. 2644; Pub. L. 103–337, div. A, title X, § 1070(c)(2), Oct. 5, 1994, 108 Stat. 2857; Pub. L. 105–277, div. A, § 101(f) [title VIII, § 405(d)(7)(A), (f)(6)(A)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–419, 2681–430.)

AMENDMENT OF SUBSECTION (c)(6)(A)

Pub. L. 105–277, § 101(f) [title VIII, § 405(f)(6)(A), (g)(2)(B)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–430, 2681–435, provided that, effective July 1, 2000, subsection (c)(6) of this section is amended by striking subparagraph (A) and inserting the following:

''(A) programs carried out by the Secretary of Labor under title I of the Workforce Investment Act of 1998;''.

REFERENCES IN TEXT

Section 3152 of the National Defense Authorization Act for Fiscal Years 1990 and 1991, referred to in subsec. (c)(2), is section 3152 of Pub. L. 101–189, which is not classified to the Code.

The Job Training Partnership Act, referred to in subsec. (c)(6)(A), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat.

[1] See References in Text note below.

1322, as amended, which is classified generally to chapter 19 (§1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

The Workforce Investment Act of 1998, referred to in subsec. (c)(6)(A), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended. Title I of the Act is classified principally to chapter 30 (§2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

The Public Works and Economic Development Act of 1965, referred to in subsec. (c)(6)(C), is Pub. L. 89–136, Aug. 26, 1965, 79 Stat. 552, as amended. Title IX of the Act was classified generally to subchapter IX (§3241 et seq.) of chapter 38 of this title, prior to repeal by Pub. L. 105–393, title I, §102(c), Nov. 13, 1998, 112 Stat. 3617. For complete classification of this Act to the Code, see Short Title note set out under section 3121 of this title and Tables.

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1993, and not as part of the Department of Energy Organization Act which comprises this chapter.

AMENDMENTS

1998—Subsec. (c)(6)(A). Pub. L. 105–277, §101(f) [title VIII, §405(d)(7)(A)], added subpar. (A) and struck out former subpar. (A) which read as follows: ''programs carried out by the Department of Labor pursuant to the Job Training Partnership Act (29 U.S.C. 1501 et seq.);''.

1994—Pub. L. 103–337, §1070(c)(2)(B), substituted ''workforce'' for ''work force'' in section catchline.

Subsec. (a). Pub. L. 103–337, §1070(c)(2)(A), substituted ''workforce for'' for ''work force for'' in introductory provisions.

Subsec. (c)(1). Pub. L. 103–337, §1070(c)(2)(A), substituted ''workforce'' for ''work force'' in introductory provisions.

Subsec. (c)(6)(B). Pub. L. 103–337, §1070(c)(2)(C), substituted ''division D'' for ''Part D''.

Subsec. (d). Pub. L. 103–337, §1070(c)(2)(A), substituted ''workforce'' for ''work force''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 101(f) [title VIII, §405(d)(7)(A)] of Pub. L. 105–277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, §405(f)(6)(A)] of Pub. L. 105–277 effective July 1, 2000, see section 101(f) [title VIII, §405(g)(1), (2)(B)] of Pub. L. 105–277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 1070(c) of Pub. L. 103–337 provided that the amendment made by that section is effective as of Oct. 23, 1992, and as if included in the National Defense Authorization Act for Fiscal Year 1993, Pub. L. 102–484, as enacted.

SEMIANNUAL REPORT TO CONGRESS OF LOCAL IMPACT ASSISTANCE

Pub. L. 105–85, div. C, title XXXI, §3153(f), Nov. 18, 1997, 111 Stat. 2044, provided that: ''The Secretary of Energy shall submit to Congress every six months a report setting forth a description of, and the amount or value of, all local impact assistance provided during the preceding six months under section 3161(c)(6) of the National Defense Authorization Act of 1993 [National Defense Authorization Act for Fiscal Year 1993] (42 U.S.C. 7274h(c)(6)).''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2297h–8, 7274j of this title.

§ 7274i. Program to monitor Department of Energy workers exposed to hazardous and radioactive substances

(a) In general

The Secretary shall establish and carry out a program for the identification and on-going medical evaluation of current and former Department of Energy employees who are subject to significant health risks as a result of the exposure of such employees to hazardous or radioactive substances during such employment.

(b) Implementation of program

(1) The Secretary shall, with the concurrence of the Secretary of Health and Human Services, issue regulations under which the Secretary shall implement the program. Such regulations shall, to the extent practicable, provide for a process to—

(A) identify the hazardous substances and radioactive substances to which current and former Department of Energy employees may have been exposed as a result of such employment;

(B) identify employees referred to in subparagraph (A) who received a level of exposure identified under paragraph (2)(B);

(C) determine the appropriate number, scope, and frequency of medical evaluations and laboratory tests to be provided to employees who have received a level of exposure identified under paragraph (2)(B) to permit the Secretary to evaluate fully the extent, nature, and medical consequences of such exposure;

(D) make available the evaluations and tests referred to in subparagraph (C) to the employees referred to in such subparagraph;

(E) ensure that privacy is maintained with respect to medical information that personally identifies any such employee; and

(F) ensure that employee participation in the program is voluntary.

(2)(A) In determining the most appropriate means of carrying out the activities referred to in subparagraphs (A) through (D) of paragraph (1), the Secretary shall consult with the Secretary of Health and Human Services under the agreement referred to in subsection (c).

(B) The Secretary of Health and Human Services, with the assistance of the Director of the Centers for Disease Control and the Director of the National Institute for Occupational Safety and Health, and the Secretary of Labor shall identify the levels of exposure to the substances referred to in subparagraph (A) of paragraph (1) that present employees referred to in such subparagraph with significant health risks under Federal and State occupational, health, and safety standards;

(3) In prescribing the guidelines referred to in paragraph (1), the Secretary shall consult with representatives of the following entities:

(A) The American College of Occupational and Environmental Medicine.

(B) The National Academy of Sciences.

(C) The National Council on Radiation Protection.

(D) Any labor organization or other collective bargaining agent authorized to act on the behalf of employees of a Department of Energy defense nuclear facility.

(4) The Secretary shall provide for each employee identified under paragraph (1)(D) and provided with any medical examination or test under paragraph (1)(E) to be notified by the appropriate medical personnel of the identification and the results of any such examination or test. Each notification under this paragraph shall be provided in a form that is readily understandable by the employee.

(5) The Secretary shall collect and assemble information relating to the examinations and tests carried out under paragraph (1)(E).

(6) The Secretary shall commence carrying out the program described in this subsection not later than 1 year after October 23, 1992.

(c) Agreement with Secretary of Health and Human Services

Not later than 180 days after October 23, 1992, the Secretary shall enter into an agreement with the Secretary of Health and Human Services relating to the establishment and conduct of the program required and regulations issued under this section.

(Pub. L. 102–484, div. C, title XXXI, § 3162, Oct. 23, 1992, 106 Stat. 2646.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1993, and not as part of the Department of Energy Organization Act which comprises this chapter.

CHANGE OF NAME

Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102–531, title III, § 312, Oct. 27, 1992, 106 Stat. 3504.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2297h–8, 7274h, 7274j of this title.

§ 7274j. Definitions

For purposes of sections 7274h to 7274j of this title:

(1) The term ''Department of Energy defense nuclear facility'' means—

(A) a production facility or utilization facility (as those terms are defined in section 2014 of this title) that is under the control or jurisdiction of the Secretary and that is operated for national security purposes (including the tritium loading facility at Savannah River, South Carolina, the 236 H facility at Savannah River, South Carolina; and the Mound Laboratory, Ohio), but the term does not include any facility that does not conduct atomic energy defense activities and does not include any facility or activity covered by Executive Order Number 12344, dated February 1, 1982, pertaining to the naval nuclear propulsion program;

(B) a nuclear waste storage or disposal facility that is under the control or jurisdiction of the Secretary;

(C) a testing and assembly facility that is under the control or jurisdiction of the Secretary and that is operated for national security purposes (including the Nevada Test Site, Nevada; the Pinnellas Plant, Florida; and the Pantex facility, Texas);

(D) an atomic weapons research facility that is under the control or jurisdiction of the Secretary (including the Lawrence Livermore, Los Alamos, and Sandia National Laboratories); or

(E) any facility described in subparagraphs (A) through (D) that—

(i) is no longer in operation;

(ii) was under the control or jurisdiction of the Department of Defense, the Atomic Energy Commission, or the Energy Research and Development Administration; and

(iii) was operated for national security purposes.

(2) The term ''Department of Energy employee'' means any employee of the Department of Energy employed at a Department of Energy defense nuclear facility, including any employee of a contractor or subcontractor of the Department of Energy employed at such a facility.

(Pub. L. 102–484, div. C, title XXXI, § 3163, Oct. 23, 1992, 106 Stat. 2647; Pub. L. 104–106, div. A, title XV, § 1504(c)(2), Feb. 10, 1996, 110 Stat. 514.)

REFERENCES IN TEXT

Executive Order Number 12344, referred to in par. (1)(A), is set out as a note under section 7158 of this title.

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1993, and not as part of the Department of Energy Organization Act which comprises this chapter.

AMENDMENTS

1996—Par. (1)(E). Pub. L. 104–106 substituted ''subparagraphs (A) through (D)'' for ''paragraphs (1) through (4)''.

TRANSFER OF FUNCTIONS

All national security functions and activities performed immediately before Oct. 5, 1999, by Department of Energy defense nuclear facilities described in this section, transferred to the Administrator for Nuclear Security of the National Nuclear Security Administration of the Department of Energy, see section 2481 of Title 50, War and National Defense.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7274h of this title.

§ 7274k. Baseline environmental management reports

(a) Annual environmental restoration reports

(1) The Secretary of Energy shall (in the years and at the times specified in paragraph (2)) submit to the Congress a report on the activities and projects necessary to carry out the environmental restoration of all Department of Energy defense nuclear facilities.

(2) Reports under paragraph (1) shall be submitted as follows:

(A) The initial report shall be submitted not later than March 1, 1995.

(B) A report after the initial report shall be submitted in each year after 1995 during which the Secretary of Energy conducts, or plans to conduct, environmental restoration activities and projects, not later than 30 days after the date on which the President submits to the

Congress the budget for the fiscal year beginning in that year.

(b) Biennial waste management reports

(1) The Secretary of Energy shall (in the years and at the times specified in paragraph (2)) submit to the Congress a report on all activities and projects for waste management, including pollution prevention and transition of operational facilities to safe shutdown status, that are necessary for Department of Energy defense nuclear facilities.

(2) Reports required under paragraph (1) shall be submitted as follows:

(A) The initial report shall be submitted not later than June 1, 1995.

(B) A report after the initial report shall be submitted in each odd-numbered year after 1997, not later than 30 days after the date on which the President submits to the Congress the budget for the fiscal year beginning in that year.

(c) Contents of reports

A report required under subsection (a) or (b) of this section shall be based on compliance with all applicable provisions of law, permits, regulations, orders, and agreements, and shall—

(1) provide the estimated total cost of, and the complete schedule for, the activities and projects covered by the report;

(2) with respect to each such activity and project, contain—

(A) a description of the activity or project;

(B) a description of the problem addressed by the activity or project;

(C) the proposed remediation of the problem, if the remediation is known or decided;

(D) the estimated cost to complete the activity or project, including, where appropriate, the cost for every five-year increment;

(E) the estimated date for completion of the activity or project, including, where appropriate, progress milestones for every five-year increment; and

(F) a description of the personnel and facilities required to complete the activity or project; and

(3) contain a description of the research and development necessary to develop the technology to conduct the activities and projects covered by the report.

(d) Biennial status and variance reports

(1)(A) The Secretary of Energy shall (in the years and at the time specified in subparagraph (B)) submit to the Congress a status and variance report on environmental restoration and waste management activities and projects at Department of Energy defense nuclear facilities.

(B) A report under subparagraph (A) shall be submitted in 1995 and in each odd-numbered year thereafter during which the Secretary of Energy conducts environmental restoration and waste management activities, not later than 30 days after the date on which the President submits to the Congress the budget for the fiscal year beginning in that year.

(2) Each status and variance report under paragraph (1) shall contain the following:

(A) Information on each such activity and project for which funds were appropriated for the two fiscal years immediately before the fiscal year during which the report is submitted, including the following:

(i) Information on whether or not the activity or project has been completed, and information on the estimated date of completion for activities or projects that have not been completed.

(ii) The total amount of funds expended for the activity or project during such prior fiscal years, including the amount of funds expended from amounts made available as the result of supplemental appropriations or a transfer of funds, and an estimate of the total amount of funds required to complete the activity or project.

(iii) Information on whether the President requested an amount of funds for the activity or project in the budget for the fiscal year during which the report is submitted, and whether such funds were appropriated or transferred.

(iv) An explanation of the reasons for any projected cost variance between actual and estimated expenditures of more than 15 percent or $10,000,000, or any schedule delay of more than six months, for the activity or project.

(B) For the fiscal year during which the report is submitted, a disaggregation of the funds appropriated for Department of Energy defense environmental restoration and waste management into the activities and projects (including discrete parts of multiyear activities and projects) that the Secretary of Energy expects to accomplish during that fiscal year.

(C) For the fiscal year for which the budget is submitted, a disaggregation of the Department of Energy defense environmental restoration and waste management budget request into the activities and projects (including discrete parts of multiyear activities and projects) that the Secretary of Energy expects to accomplish during that fiscal year.

(e) Compliance tracking

In preparing a report under this section, the Secretary of Energy shall provide, with respect to each activity and project identified in the report, information which is sufficient to track the Department of Energy's compliance with relevant Federal and State regulatory milestones.

(f) Public participation in development of information

(1) The Secretary of Energy shall consult with the Administrator of the Environmental Protection Agency, the Attorney General, Governors and Attorneys General of affected States, appropriate representatives of affected Indian tribes, and interested members of the public in the development of information necessary to complete the reports required by subsections (a), (b), and (d) of this section.

(2) Consultation under paragraph (1) shall not interfere with the timely submission to Congress of the budget for a fiscal year.

(3) The Secretary may award grants to, and enter into cooperative agreements with, affected States and affected Indian tribes to facilitate

the participation of such entities in the development of information under this subsection. The Secretary may also take appropriate action to facilitate the participation of interested members of the public in such development under this subsection.

(Pub. L. 103–160, div. C, title XXXI, § 3153, Nov. 30, 1993, 107 Stat. 1950; Pub. L. 103–337, div. C, title XXXI, § 3160(b)–(d), Oct. 5, 1994, 108 Stat. 3094; Pub. L. 104–201, div. C, title XXXI, § 3152, Sept. 23, 1996, 110 Stat. 2839; Pub. L. 105–85, div. C, title XXXI, § 3160, Nov. 18, 1997, 111 Stat. 2048.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1994, and not as part of the Department of Energy Organization Act which comprises this chapter.

AMENDMENTS

1997—Subsec. (b)(2)(B). Pub. L. 105–85 substituted ''1997'' for ''1995''.

1996—Subsec. (b). Pub. L. 104–201, § 3152(1), substituted ''Biennial'' for ''Annual'' in heading and ''each odd-numbered year after 1995'' for ''each year after 1995'' in par. (2)(B).

Subsec. (d). Pub. L. 104–201, § 3152(2), substituted ''Biennial'' for ''Annual'' in heading, ''each odd-numbered year'' for ''each year'' in par. (1)(B), ''two fiscal years immediately'' for ''the fiscal year immediately'' in introductory provisions of par. (2)(A), and ''prior fiscal years'' for ''prior fiscal year'' in par. (2)(A)(ii).

1994—Subsec. (b)(1). Pub. L. 103–337, § 3160(b), inserted ''including pollution prevention and'' after ''waste management,'' and struck out ''and technology research and development related to such activities and projects'' after ''shutdown status,''.

Subsec. (c)(2)(F). Pub. L. 103–337, § 3160(c)(2)–(4), added subpar. (F).

Subsec. (c)(3). Pub. L. 103–337, § 3160(c)(1), (5), added par. (3).

Subsec. (f). Pub. L. 103–337, § 3160(d), added subsec. (f).

REQUIREMENT TO DEVELOP FUTURE USE PLANS FOR ENVIRONMENTAL MANAGEMENT PROGRAMS

Section 3153 of Pub. L. 104–201 provided that:

''(a) AUTHORITY TO DEVELOP FUTURE USE PLANS.—The Secretary of Energy may develop future use plans for any defense nuclear facility at which environmental restoration and waste management activities are occurring.

''(b) REQUIREMENT TO DEVELOP FUTURE USE PLANS.—The Secretary shall develop a future use plan for each of the following defense nuclear facilities:

''(1) Hanford Site, Richland, Washington.

''(2) Rocky Flats Plant, Golden, Colorado.

''(3) Savannah River Site, Aiken, South Carolina.

''(4) Idaho National Engineering Laboratory, Idaho.

''(c) CITIZEN ADVISORY BOARD.—(1) At each defense nuclear facility for which the Secretary of Energy intends or is required to develop a future use plan under this section and for which no citizen advisory board has been established, the Secretary shall establish a citizen advisory board.

''(2) The Secretary may authorize the manager of a defense nuclear facility for which a future use plan is developed under this section (or, if there is no such manager, an appropriate official of the Department of Energy designated by the Secretary) to pay routine administrative expenses of a citizen advisory board established for that facility. Such payments shall be made from funds available to the Secretary for program direction in carrying out environmental restoration and waste management activities necessary for national security programs.

''(d) REQUIREMENT TO CONSULT WITH CITIZEN ADVISORY BOARD.—In developing a future use plan under this section with respect to a defense nuclear facility, the Secretary of Energy shall consult with a citizen advisory board established pursuant to subsection (c) or a similar advisory board already in existence as of the date of the enactment of this Act [Sept. 23, 1996] for such facility, affected local governments (including any local future use redevelopment authorities), and other appropriate State agencies.

''(e) 50-YEAR PLANNING PERIOD.—A future use plan developed under this section shall cover a period of at least 50 years.

''(f) DEADLINES.—For each facility listed in subsection (b), the Secretary of Energy shall develop a draft future use plan by October 1, 1997, and a final future use plan by March 15, 1998.

''(g) REPORT.—Not later than 60 days after completing development of a final plan for a site listed in subsection (b), the Secretary of Energy shall submit to Congress a report on the plan. The report shall describe the plan and contain such findings and recommendations with respect to the site as the Secretary considers appropriate.

''(h) SAVINGS PROVISIONS.—(1) Nothing in this section, or in a future use plan developed under this section with respect to a defense nuclear facility, shall be construed as requiring any modification to a future use plan with respect to a defense nuclear facility that was developed before the date of the enactment of this Act [Sept. 23, 1996].

''(2) Nothing in this section may be construed to affect statutory requirements for an environmental restoration or waste management activity or project or to modify or otherwise affect applicable statutory or regulatory environmental restoration and waste management requirements, including substantive standards intended to protect public health and the environment, nor shall anything in this section be construed to preempt or impair any local land use planning or zoning authority or State authority.''

DEFENSE NUCLEAR ENVIRONMENTAL CLEANUP AND MANAGEMENT

Subtitle E of title XXXI of div. C of Pub. L. 104–201, as amended by Pub. L. 105–85, div. C, title XXXI, § 3159, Nov. 18, 1997, 111 Stat. 2047, provided that:

''SEC. 3171. PURPOSE.

''The purpose of this subtitle is to provide for the expedited environmental restoration and waste management of defense nuclear facilities through the use of cost-effective management mechanisms and innovative technologies.

''SEC. 3172. APPLICABILITY.

''(a) IN GENERAL.—The provisions of this subtitle shall apply to the following defense nuclear facilities:

''(1) Any defense nuclear facility for which the fiscal year 1996 environmental management budget was $350,000,000 or more.

''(2) Any other defense nuclear facility if—

''(A) the chief executive officer of the State in which the facility is located submits to the Secretary a request that the facility be covered by the provisions of this subtitle; and

''(B) the Secretary approves the request.

''(b) LIMITATION.—The Secretary may not approve a request under subsection (a)(2) until 60 days after the date on which the Secretary notifies Congress of the Secretary's receipt of the request.

''SEC. 3173. SITE MANAGER.

''(a) APPOINTMENT.—(1) Subject to paragraph (2), the Secretary shall expeditiously appoint a Site Manager for each defense nuclear facility (in this subtitle referred to as the 'Site Manager').

''(2) In the case of a defense nuclear facility at which another program, in addition to environmental management operations, is carried out, and such other program is subject to management by a site manager, field office manager, or operations office manager, the Secretary shall appoint such manager to be the Site Manager for such facility for purposes of this subtitle.

''(b) AUTHORITY.—(1) Except as provided in paragraph (5), in addition to other authorities provided for in this subtitle, the Secretary may delegate to the Site Manager of a defense nuclear facility authority to oversee and direct environmental management operations at the facility, including the authority to—

''(A) enter into and modify contractual agreements to enhance environmental restoration and waste management at the facility;

''(B) request that the Department headquarters submit to Congress a reprogramming package shifting funds among accounts in order to facilitate the most efficient and timely environmental restoration and waste management of the facility, and, in the event that the Department headquarters does not act upon the request within 60 days, submit such request to the appropriate congressional committees for review;

''(C) subject to paragraph (2), negotiate amendments to environmental agreements for the Department;

''(D) manage Department personnel at the facility;

''(E) consider the costs, risk reduction benefits, and other benefits for the purposes of ensuring protection of human health and the environment or safety, with respect to any environmental remediation activity the cost of which exceeds $25,000,000; and

''(F) have assessments prepared for environmental restoration activities (in several documents or a single document, as determined by the Site Manager).

''(2) In using the authority described in paragraph (1)(C), a Site Manager may not negotiate an amendment that is expected to result in additional life cycle costs to the Department without the approval of the Secretary.

''(3) In using any authority described in paragraph (1), a Site Manager of a facility shall consult with the State where the facility is located and the advisory board for the facility.

''(4) The delegation of any authority pursuant to this subsection shall not be construed as restricting the Secretary's authority to delegate other authorities as necessary.

''(5) In the case of the Hanford Reservation, Richland, Washington, the Secretary shall delegate to the Site Manager the authority described in paragraph (1) for fiscal year 1998. The Secretary may withdraw the delegated authority if the Secretary—

''(A) determines that the Site Manager of the Hanford Reservation has misused or misapplied that authority; and

''(B) the Secretary submits to Congress a notification of the Secretary's intent to withdraw the authority.

''(c) INFORMATION TO SECRETARY.—The Site Manager of a defense nuclear facility shall regularly inform the Secretary, Congress, and the advisory board for the facility of the progress made by the Site Manager to achieve the expedited environmental restoration and waste management of the facility.

''SEC. 3174. DEPARTMENT OF ENERGY ORDERS.

''An order imposed after the date of the enactment of this Act [Sept. 23, 1996] relating to the execution of environmental restoration, waste management, or technology development activities at a defense nuclear facility under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) may be imposed by the Secretary at the defense nuclear facility only if the Secretary finds that the order is necessary for the protection of human health and the environment or safety, the fulfillment of current legal requirements, or the conduct of critical administrative functions.

''SEC. 3175. DEPLOYMENT OF TECHNOLOGY FOR REMEDIATION OF DEFENSE NUCLEAR WASTE.

''(a) IN GENERAL.—The Site Manager of each defense nuclear facility shall promote the deployment of innovative environmental technologies for remediation of defense nuclear waste at the facility.

''(b) CRITERIA.—To carry out subsection (a), the Site Manager of a defense nuclear facility shall establish a program at the facility for the testing and deployment of innovative environmental technologies for the remediation of defense nuclear waste at the facility. In establishing such a program, the Site Manager may—

''(1) establish a simplified, standardized, and timely process for the testing, verification, certification, and deployment of environmental technologies;

''(2) solicit applications to test and deploy environmental technologies suitable for environmental restoration and waste management activities at the facility, including prevention, control, characterization, treatment, and remediation of contamination;

''(3) consult and cooperate with the heads of existing programs at the facility for the verification and certification of environmental technologies at the facility;

''(4) pay the costs of the demonstration of such technologies;

''(5) enter into contracts and other agreements with other public and private entities to deploy environmental technologies at the facility; and

''(6) include incentives, such as product performance specifications, in contracts to encourage the implementation of innovative environmental technologies.

''(c) FOLLOW-ON CONTRACTS.—(1) If the Secretary and a person demonstrating a technology under the program enter into a contract for remediation of nuclear waste at a defense nuclear facility covered by this subtitle, or at any other Department facility, as a follow-on to the demonstration of the technology, the Secretary shall ensure that the contract provides for the Secretary to recoup from the contractor the costs incurred by the Secretary pursuant to subsection (b)(6) for the demonstration.

''(2) No contract between the Department and a contractor for the demonstration of technology under subsection (b) may provide for reimbursement of the costs of the contractor on a cost plus fee basis.

''(d) SAFE HARBORS.—In the case of an environmental technology tested, verified, certified, and deployed at a defense nuclear facility under a program established under subsection (b), the Site Manager of another defense nuclear facility may request the Secretary to waive or limit contractual or Department regulatory requirements that would otherwise apply in implementing the same environmental technology at such other facility.

''SEC. 3176. PERFORMANCE-BASED CONTRACTING.

''(a) PROGRAM.—The Secretary shall develop and implement a program for performance-based contracting for contracts entered into for environmental remediation at defense nuclear facilities. The program shall ensure that, to the maximum extent practicable and appropriate, such contracts include the following:

''(1) Clearly stated and results oriented performance criteria and measures.

''(2) Appropriate incentives for contractors to meet or exceed the performance criteria effectively and efficiently.

''(3) Appropriate criteria and incentives for contractors to seek and engage subcontractors who may more effectively and efficiently perform either unique and technologically challenging tasks or routine and interchangeable services.

''(4) Specific incentives for cost savings.

''(5) Financial accountability.

''(6) When appropriate, reduction of fee for failure to meet minimum performance criteria and standards.

''(b) CRITERIA AND MEASURES.—Performance criteria and measures should take into consideration, at a minimum, the following: managerial control; elimination or reduction of risk to public health and the environment; workplace safety; financial control; goal-oriented work scope; use of innovative and alternative technologies and techniques that result in cleanups being performed less expensively, more quickly, and within quality parameters; and performing within benchmark cost estimates.

''(c) CONSULTATION.—In implementing this section, the Secretary shall consult with interested parties.

''(d) DEADLINE.—The Secretary shall implement this section not later than October 1, 1997, unless the Secretary submits to Congress before that date a report with a schedule for completion of action under this section.

''SEC. 3177. DESIGNATION OF COVERED FACILITIES AS ENVIRONMENTAL CLEANUP DEMONSTRATION AREAS.

''(a) DESIGNATION.—Each defense nuclear facility is hereby designated as an environmental cleanup demonstration area to carry out the purposes of this subtitle, including the utilization and evaluation of new technologies to be used in environmental restoration and remediation at other defense nuclear facilities.

''(b) SENSE OF CONGRESS.—It is the sense of Congress that Federal and State regulatory agencies, members of the communities surrounding any defense nuclear facility, and other affected parties with respect to the facility should continue to—

''(1) develop expedited and streamlined processes and systems for cleaning up such facility;

''(2) eliminate unnecessary administrative complexity and unnecessary duplication of regulation with respect to the cleanup of such facility;

''(3) proceed expeditiously and cost-effectively with environmental restoration and remediation activities at such facility;

''(4) consider future land use in selecting environmental cleanup remedies at such facility; and

''(5) identify and recommend to Congress changes in law needed to expedite the cleanup of such facility.

''SEC. 3178. DEFINITIONS.

''In this subtitle:

''(1) The term 'Secretary' means the Secretary of Energy.

''(2) The term 'Department' means the Department of Energy.

''(3) The term 'defense nuclear facility' has the meaning given the term 'Department of Energy defense nuclear facility' in section 318 of the Atomic Energy Act of 1954 (42 U.S.C. 2286g).

''SEC. 3179. TERMINATION.

''This subtitle is repealed effective September 30, 2001.

''SEC. 3180. REPORT.

''Not later than September 30, 2000, the Secretary shall submit to Congress a report on the effectiveness of this subtitle in expediting environmental restoration and waste management of defense nuclear facilities. The report shall include recommendations on whether this subtitle should remain in effect beyond September 30, 2001.''

ACCELERATED SCHEDULE FOR ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT ACTIVITIES

Pub. L. 104–106, div. C, title XXXI, § 3156, Feb. 10, 1996, 110 Stat. 625, provided that:

''(a) ACCELERATED CLEANUP.—The Secretary of Energy shall accelerate the schedule for environmental restoration and waste management activities and projects for a site at a Department of Energy defense nuclear facility if the Secretary determines that such an accelerated schedule will achieve meaningful, long-term cost savings to the Federal Government and could substantially accelerate the release of land for local reuse.

''(b) CONSIDERATION OF FACTORS.—In making a determination under subsection (a), the Secretary shall consider the following:

''(1) The cost savings achievable by the Federal Government.

''(2) The amount of time for completion of environmental restoration and waste management activities and projects at the site that can be reduced from the time specified for completion of such activities and projects in the baseline environmental management report required to be submitted for 1995 under section 3153 of the National Defense Authorization Act for Fiscal Year 1994 (42 U.S.C. 7274k).

''(3) The potential for reuse of the site.

''(4) The risks that the site poses to local health and safety.

''(5) The proximity of the site to populated areas.

''(c) REPORT.—Not later than May 1, 1996, the Secretary shall submit to Congress a report on each site for which the Secretary has accelerated the schedule for environmental restoration and waste management activities and projects under subsection (a). The report shall include an explanation of the basis for the determination for that site required by such subsection, including an explanation of the consideration of the factors described in subsection (b).

''(d) SAVINGS PROVISION.—Nothing in this section may be construed to affect a specific statutory requirement for a specific environmental restoration or waste management activity or project or to modify or otherwise affect applicable statutory or regulatory environmental restoration and waste management requirements, including substantive standards intended to protect public health and the environment.''

§ 7274*l*. Authority to transfer certain Department of Energy property

(a) Authority to transfer

(1) Notwithstanding any other provision of law, the Secretary of Energy may transfer, for consideration, all right, title, and interest of the United States in and to the property referred to in subsection (b) of this section to any person if the Secretary determines that such transfer will mitigate the adverse economic consequences that might otherwise arise from the closure of a Department of Energy facility.

(2) The amount of consideration received by the United States for a transfer under paragraph (1) may be less than the fair market value of the property transferred if the Secretary determines that the receipt of such lesser amount by the United States is in accordance with the purpose of such transfer under this section.

(3) The Secretary may require any additional terms and conditions with respect to a transfer of property under paragraph (1) that the Secretary determines appropriate to protect the interests of the United States.

(b) Covered property

Property referred to in subsection (a) of this section is the following property of the Department of Energy that is located at a Department of Energy facility to be closed or reconfigured:

(1) The personal property and equipment at the facility that the Secretary determines to be excess to the needs of the Department of Energy.

(2) Any personal property and equipment at the facility (other than the property and equipment referred to in paragraph (1)) the replacement cost of which does not exceed an amount equal to 110 percent of the costs of relocating the property or equipment to another facility of the Department of Energy.

(Pub. L. 103–160, div. C, title XXXI, § 3155, Nov. 30, 1993, 107 Stat. 1953.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1994, and not as part

of the Department of Energy Organization Act which comprises this chapter.

§ 7274m. Safety oversight and enforcement at defense nuclear facilities

(a) Safety at defense nuclear facilities

The Secretary of Energy shall take appropriate actions to ensure that—

(1) officials of the Department of Energy who are responsible for independent oversight of matters relating to nuclear safety at defense nuclear facilities and enforcement of nuclear safety standards at such facilities maintain independence from officials who are engaged in, or who are advising persons who are engaged in, management of such facilities;

(2) the independent, internal oversight functions carried out by the Department include activities relating to—

(A) the assessment of the safety of defense nuclear facilities;

(B) the assessment of the effectiveness of Department program offices in carrying out programs relating to the environment, safety, health, and security at defense nuclear facilities;

(C) the provision to the Secretary of oversight reports that—

(i) contain validated technical information; and

(ii) provide a clear analysis of the extent to which line programs governing defense nuclear facilities meet applicable goals for the environment, safety, health, and security at such facilities; and

(D) the development of clear performance standards to be used in assessing the adequacy of the programs referred to in subparagraph (C)(ii);

(3) the Department has a system for bringing issues relating to nuclear safety at defense nuclear facilities to the attention of the officials of the Department (including the Secretary of Energy) who have authority to resolve such issues in an adequate and timely manner; and

(4) an adequate number of qualified personnel of the Department are assigned to oversee matters relating to nuclear safety at defense nuclear facilities and enforce nuclear safety standards at such facilities.

(b) Report

Not later than 90 days after October 5, 1994, the Secretary shall submit to Congress a report describing the following:

(1) The actions that the Secretary has taken or will take to fulfill the requirements set forth in paragraphs (1), (2), and (3) of subsection (a) of this section.

(2) The actions in addition to the actions described under paragraph (1) that the Secretary could take in order to fulfill such requirements.

(3) The respective roles with regard to nuclear safety at defense nuclear facilities of the following officials:

(A) The Associate Deputy Secretary of Energy for Field Management.

(B) The Assistant Secretary of Energy for Defense Programs.

(C) The Assistant Secretary of Energy for Environmental Restoration and Waste Management.

(Pub. L. 103–337, div. C, title XXXI, § 3163, Oct. 5, 1994, 108 Stat. 3097.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1995, and not as part of the Department of Energy Organization Act which comprises this chapter.

REPORT AND PLAN FOR EXTERNAL OVERSIGHT OF NATIONAL LABORATORIES

Pub. L. 105–85, div. C, title XXXI, § 3154, Nov. 18, 1997, 111 Stat. 2044, directed Secretary of Energy to submit to Congress, not later than July 1, 1999, a report on the external oversight of the Lawrence Livermore National Laboratory, Livermore, California, the Los Alamos National Laboratory, Los Alamos, New Mexico, and the Sandia National Laboratories, Albuquerque, New Mexico.

SUBMITTAL OF ANNUAL REPORT ON STATUS OF SECURITY FUNCTIONS AT NUCLEAR WEAPONS FACILITIES

Pub. L. 105–85, div. C, title XXXI, § 3162, Nov. 18, 1997, 111 Stat. 2049, as amended by Pub. L. 106–65, div. C, title XXXI, § 3142(h)(2), Oct. 5, 1999, 113 Stat. 934, provided that: ''Not later than September 1 each year, the Secretary of Energy shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of Senate and House of Representatives] the report entitled 'Annual Report to the President on the Status of Safeguards and Security of Domestic Nuclear Weapons Facilities', or any successor report to such report.''

§ 7274n. Projects to accelerate closure activities at defense nuclear facilities

(a) In general

The Secretary of Energy shall select and carry out closure-acceleration projects in accordance with this section.

(b) Purpose

The purpose of a closure-acceleration project shall be, within a fixed period of time, to clean up or decommission a Department of Energy defense nuclear facility or portion thereof and to make the facility safe by stabilizing, consolidating, treating, or removing nuclear materials from the facility in order to reduce significantly or eliminate future costs at the facility.

(c) Eligible projects

(1) The Secretary of Energy may establish a closure-acceleration project as eligible for selection under subsection (e) of this section by—

(A) developing a plan for the project that meets the criteria under paragraph (2); and

(B) determining that the project will achieve significant long-term cost savings to the Federal Government from the baseline cost estimate made by the Department of Energy for the project.

(2) A plan for a closure-acceleration project under this section shall—

(A) define a clear, delineated scope of work for completion of the project;

(B) demonstrate that, with respect to the site of the proposed project, there is a regulatory agreement between the Department of Energy and other appropriate authorities for

the implementation of environmental remediation requirements that would allow for successful completion of the project;

(C) demonstrate, to the maximum extent possible, the support of State and local elected officials and the public for the project;

(D) contain performance-based provisions to be included in the contract for the project, including—

(i) clearly stated and results-oriented performance criteria and measures;

(ii) appropriate incentives for the contractor to meet and exceed the performance criteria effectively and efficiently;

(iii) appropriate criteria and incentives for the contractor to seek and engage subcontractors who may more effectively and efficiently perform either unique and technologically challenging tasks or routine and interchangeable services;

(iv) specific incentives for cost savings;

(v) financial accountability; and

(vi) when appropriate, reduction of fee for failure to meet minimum performance criteria and standards;

(E) demonstrate that the project will use new and innovative cleanup and waste management technology with potential for application to other locations and facilities without requiring the development of new technologies; and

(F) demonstrate that the project can be completed within 10 years from the date of its selection.

(d) Program administration

The Secretary of Energy, acting through the Assistant Secretary for Environmental Management, shall implement a program to carry out the provisions of this section.

(e) Selection of projects

(1) The Secretary of Energy shall select closure-acceleration projects to be carried out under this section from among those projects established as eligible under subsection (c) of this section that will result in the most significant long-term cost savings to the Government and the most significant reduction of imminent risk.

(2) For each project selected, the Secretary shall submit to Congress a report setting forth the reasons why the project was selected, based on the criteria under subsection (c)(2) of this section and paragraph (1) of this subsection.

(f) Multiyear contracts

Notwithstanding section 254c(d) of title 41, the Secretary of Energy may enter into multiyear contracts to carry out projects selected under this section for up to 10 program years.

(g) Funding

(1) In the budget submitted to Congress under section 1105(a) of title 31 each year, the President shall set forth funds for carrying out closure-acceleration projects under this section as a separate item in the environmental restoration and waste management account of the Department of Energy budget.

(2) Funds appropriated for purposes of carrying out projects under this section shall remain available until expended.

(3) If a closure-acceleration project is being carried out at a defense nuclear facility with funds appropriated for such projects, the Secretary of Energy may not reduce the funds otherwise allocated to that defense nuclear facility for environmental restoration and waste management by reason of the funds being used for the project at that facility.

(4) Funds appropriated for purposes of carrying out projects under this section may not be used for an item for which Congress has specifically denied funds or for a new program or project that has not been authorized by Congress.

(h) Annual report

The Secretary of Energy shall submit each year to Congress a report on the status of each closure-acceleration project being carried out under this section. The report shall include, for each such project, the following:

(1) A description of the funding already provided for the project.

(2) A description of the extent of the cleanup, decommissioning, stabilization, consolidation, treatment, or removal activities completed.

(3) A comparison of the actual results of the project to the original proposal and the actual cost of the project to the originally proposed cost.

(4) A description of the funding needed in future fiscal years for completion of the project.

(i) Duration of program

No closure-acceleration project selected under this section may be carried out after the expiration of the 15-year period beginning on September 23, 1996.

(j) Savings provision

Nothing in this section may be construed to affect statutory requirements for an environmental restoration or waste management activity or project or to modify or otherwise affect applicable statutory or regulatory environmental restoration and waste management requirements, including substantive standards intended to protect public health and the environment, nor shall anything in this section be construed to preempt or impair any local land use planning or zoning authority or State authority.

(Pub. L. 104–201, div. C, title XXXI, § 3143, Sept. 23, 1996, 110 Stat. 2836.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1997, and not as part of the Department of Energy Organization Act which comprises this chapter.

§ 7274o. Reports on critical difficulties at nuclear weapons laboratories and nuclear weapons production plants

(a) Reports by heads of laboratories and plants

In the event of a difficulty at a nuclear weapons laboratory or a nuclear weapons production plant that has a significant bearing on confidence in the safety or reliability of a nuclear weapon or nuclear weapon type, the head of the laboratory or plant, as the case may be, shall

submit to the Assistant Secretary of Energy for Defense Programs a report on the difficulty. The head of the laboratory or plant shall submit the report as soon as practicable after discovery of the difficulty.

(b) Transmittal by Assistant Secretary

Not later than 10 days after receipt of a report under subsection (a) of this section, the Assistant Secretary shall transmit the report (together with the comments of the Assistant Secretary) to the congressional defense committees, to the Secretary of Energy and the Secretary of Defense, and to the President.

(c) Omitted

(d) Inclusion of reports in annual stockpile certification

Any report submitted pursuant to subsection (a) of this section shall also be included with the decision documents that accompany the annual certification of the safety and reliability of the United States nuclear weapons stockpile which is provided to the President for the year in which such report is submitted.

(e) Definitions

In this section:

(1) The term ''nuclear weapons laboratory'' means the following:

(A) Lawrence Livermore National Laboratory, California.

(B) Los Alamos National Laboratory, New Mexico.

(C) Sandia National Laboratories.

(2) The term ''nuclear weapons production plant'' means the following:

(A) The Pantex Plant, Texas.

(B) The Savannah River Site, South Carolina.

(C) The Kansas City Plant, Missouri.

(D) The Y–12 Plant, Oak Ridge, Tennessee.

(Pub. L. 104–201, div. C, title XXXI, §3159, Sept. 23, 1996, 110 Stat. 2842; Pub. L. 105–85, div. A, title XIII, §1305(c), (d), Nov. 18, 1997, 111 Stat. 1954; Pub. L. 106–65, div. C, title XXXI, §3163(f), Oct. 5, 1999, 113 Stat. 946.)

CODIFICATION

Section is comprised of section 3159 of Pub. L. 104–201. Subsec. (c) of section 3159 of Pub. L. 104–201 amended section 179 of Title 10, Armed Forces.

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1997, and not as part of the Department of Energy Organization Act which comprises this chapter.

AMENDMENTS

1999—Subsecs. (d), (e). Pub. L. 106–65 added subsec. (d) and redesignated former subsec. (d) as (e).

1997—Subsec. (b). Pub. L. 105–85 substituted ''Not later than 10 days'' for ''As soon as practicable'' and ''committees,'' for ''committees and'' and inserted before period at end '', and to the President''.

TRANSFER OF FUNCTIONS

All national security functions and activities performed immediately before Oct. 5, 1999, by nuclear weapons laboratories and production facilities defined in this section, transferred to the Administrator for Nuclear Security of the National Nuclear Security Administration of the Department of Energy, see section 2481 of Title 50, War and National Defense.

''CONGRESSIONAL DEFENSE COMMITTEES'' DEFINED

Congressional defense committees means the Committees on Armed Services and Appropriations of the Senate and the House of Representatives, see section 3 of Pub. L. 104–201, 110 Stat. 2439, as amended by Pub. L. 106–65, div. A, title X, §1067(5), Oct. 5, 1999, 113 Stat. 774.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7274p of this title.

§ 7274p. Advice to President and Congress regarding safety, security, and reliability of United States nuclear weapons stockpile

(a) Findings

Congress makes the following findings:

(1) Nuclear weapons are the most destructive weapons on earth. The United States and its allies continue to rely on nuclear weapons to deter potential adversaries from using weapons of mass destruction. The safety and reliability of the nuclear weapons stockpile are essential to ensure its credibility as a deterrent.

(2) On September 24, 1996, President Clinton signed the Comprehensive Test Ban Treaty.

(3) Effective as of September 30, 1996, the United States is prohibited by section 507 of the Energy and Water Development Appropriations Act, 1993 (Public Law 102–377; 42 U.S.C. 2121 note) from conducting underground nuclear tests ''unless a foreign state conducts a nuclear test after this date, at which time the prohibition on United States nuclear testing is lifted''.

(4) Section 1436(b) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 42 U.S.C. 2121 note) requires the Secretary of Energy to ''establish and support a program to assure that the United States is in a position to maintain the reliability, safety, and continued deterrent effect of its stockpile of existing nuclear weapons designs in the event that a low-threshold or comprehensive test ban on nuclear explosive testing is negotiated and ratified.''.

(5) Section 3138(d) of the National Defense Authorization Act for Fiscal Year 1994[1] (Public Law 103–160; 42 U.S.C. 2121 note) required the President to submit an annual report to Congress which sets forth ''any concerns with respect to the safety, security, effectiveness, or reliability of existing United States nuclear weapons raised by the Stockpile Stewardship Program of the Department of Energy''.

(6) President Clinton declared in July 1993 that ''to assure that our nuclear deterrent remains unquestioned under a test ban, we will explore other means of maintaining our confidence in the safety, reliability, and the performance of our weapons''. This decision was incorporated in a Presidential Directive.

(7) Section 3138 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 42 U.S.C. 2121 note) also requires that the Secretary of Energy establish a ''stewardship program to ensure the preservation of the core intellectual and technical competencies of the United States in nuclear weapons''.

[1] See References in Text note below.

(8) The plan of the Department of Energy to maintain the safety and reliability of the United States nuclear weapons stockpile is known as the Stockpile Stewardship and Management Program. The ability of the United States to maintain and certify the safety, security, effectiveness, and reliability of the nuclear weapons stockpile without testing will require utilization of new and sophisticated computational capabilities and diagnostic technologies, methods, and procedures. Current diagnostic technologies and laboratory testing techniques are insufficient to certify the safety and reliability of the United States nuclear weapons stockpile into the future. Whereas in the past laboratory and diagnostic tools were used in conjunction with nuclear testing, in the future they will provide, under the Department of Energy's stockpile stewardship plan, the sole basis for assessing past test data and for making judgments on phenomena observed in connection with the aging of the stockpile.

(9) Section 7274*o* of this title requires that the directors of the nuclear weapons laboratories and the nuclear weapons production plants submit a report to the Assistant Secretary of Energy for Defense Programs if they identify a problem that has significant bearing on confidence in the safety or reliability of a nuclear weapon or nuclear weapon type, that the Assistant Secretary must transmit that report, along with any comments, to the congressional defense committees and to the Secretary of Energy and the Secretary of Defense, and that the Joint Nuclear Weapons Council advise Congress regarding its analysis of any such problems.

(10) On August 11, 1995, President Clinton directed ''the establishment of a new annual reporting and certification requirement [to] ensure that our nuclear weapons remain safe and reliable under a comprehensive test ban''.

(11) On the same day, the President noted that the Secretary of Defense and the Secretary of Energy have the responsibility, after being ''advised by the Nuclear Weapons Council, the Directors of DOE's nuclear weapons laboratories, and the Commander of United States Strategic Command'', to provide the President with the information regarding the certification referred to in paragraph (10).

(12) The Joint Nuclear Weapons Council established by section 179 of title 10 is responsible for providing advice to the Secretary of Energy and the Secretary of Defense regarding nuclear weapons issues, including ''considering safety, security, and control issues for existing weapons''. The Council plays a critical role in advising Congress in matters relating to nuclear weapons.

(13) It is essential that the President receive well-informed, objective, and honest opinions, including dissenting views, from his advisers and technical experts regarding the safety, security, effectiveness, and reliability of the nuclear weapons stockpile.

(b) Policy

(1) In general

It is the policy of the United States—

(A) to maintain a safe, secure, effective, and reliable nuclear weapons stockpile; and

(B) as long as other nations control or actively seek to acquire nuclear weapons, to retain a credible nuclear deterrent.

(2) Nuclear weapons stockpile

It is in the security interest of the United States to sustain the United States nuclear weapons stockpile through a program of stockpile stewardship, carried out at the nuclear weapons laboratories and nuclear weapons production plants.

(3) Sense of Congress

It is the sense of Congress that—

(A) the United States should retain a triad of strategic nuclear forces sufficient to deter any future hostile foreign leadership with access to strategic nuclear forces from acting against the vital interests of the United States;

(B) the United States should continue to maintain nuclear forces of sufficient size and capability to implement an effective and robust deterrent strategy; and

(C) the advice of the persons required to provide the President and Congress with assurances of the safety, security, effectiveness, and reliability of the nuclear weapons force should be scientifically based, without regard for politics, and of the highest quality and integrity.

(c), (d) Omitted

(e) Advice and opinions regarding nuclear weapons stockpile

In addition to a director of a nuclear weapons laboratory or a nuclear weapons production plant (under section 7274*o* of this title), any member of the Joint Nuclear Weapons Council or the commander of the United States Strategic Command may also submit to the President, the Secretary of Defense, the Secretary of Energy, or the congressional defense committees advice or opinion regarding the safety, security, effectiveness, and reliability of the nuclear weapons stockpile.

(f) Expression of individual views

A representative of the President may not take any action against, or otherwise constrain, a director of a nuclear weapons laboratory or a nuclear weapons production plant, a member of the Joint Nuclear Weapons Council, or the Commander of United States Strategic Command for presenting individual views to the President, the National Security Council, or Congress regarding the safety, security, effectiveness, and reliability of the nuclear weapons stockpile.

(g) Definitions

In this section:

(1) The term ''representative of the President'' means the following:

(A) Any official of the Department of Defense or the Department of Energy who is appointed by the President and confirmed by the Senate.

(B) Any member of the National Security Council.

(C) Any member of the Joint Chiefs of Staff.

(D) Any official of the Office of Management and Budget.

(2) The term ''nuclear weapons laboratory'' means any of the following:

(A) Lawrence Livermore National Laboratory, California.

(B) Los Alamos National Laboratory, New Mexico.

(C) Sandia National Laboratories.

(3) The term ''nuclear weapons production plant'' means any of the following:

(A) The Pantex Plant, Texas.

(B) The Savannah River Site, South Carolina.

(C) The Kansas City Plant, Missouri.

(D) The Y–12 Plant, Oak Ridge, Tennessee.

(Pub. L. 105–85, div. A, title XIII, §1305, Nov. 18, 1997, 111 Stat. 1952.)

REFERENCES IN TEXT

Section 3138(d) of the National Defense Authorization Act for Fiscal Year 1994, referred to in subsec. (a)(5), was repealed by Pub. L. 105–85, div. C, title XXXI, §3152(e)(1), Nov. 18, 1997, 111 Stat. 2042.

CODIFICATION

Section is comprised of section 1305 of Pub. L. 105–85. Subsecs. (c) and (d) of section 1305 of Pub. L. 105–85 amended section 7274*o* of this title.

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1998, and not as part of the Department of Energy Organization Act which comprises this chapter.

TRANSFER OF FUNCTIONS

All national security functions and activities performed immediately before Oct. 5, 1999, by nuclear weapons laboratories and production plants defined in this section, transferred to the Administrator for Nuclear Security of the National Nuclear Security Administration of the Department of Energy, see section 2481 of Title 50, War and National Defense.

''CONGRESSIONAL DEFENSE COMMITTEES'' DEFINED

Congressional defense committees means the Committees on Armed Services and Appropriations of the Senate and the House of Representatives, see section 3 of Pub. L. 105–85, 111 Stat. 1645, as amended by Pub. L. 106–65, div. A, title X, §1067(4), Oct. 5, 1999, 113 Stat. 774.

§ 7274q. Transfers of real property at certain Department of Energy facilities

(a) Transfer regulations

(1) The Secretary of Energy shall prescribe regulations for the transfer by sale or lease of real property at Department of Energy defense nuclear facilities for the purpose of permitting the economic development of the property.

(2) The Secretary of Energy may not transfer real property under the regulations prescribed under paragraph (1) until—

(A) the Secretary submits a notification of the proposed transfer to the congressional defense committees; and

(B) a period of 30 days has elapsed following the date on which the notification is submitted.

(b) Indemnification

(1) Except as provided in paragraph (3) and subject to subsection (c) of this section, in the sale or lease of real property pursuant to the regulations prescribed under subsection (a) of this section, the Secretary of Energy may hold harmless and indemnify a person or entity described in paragraph (2) against any claim for injury to person or property that results from the release or threatened release of a hazardous substance or pollutant or contaminant as a result of Department of Energy activities at the defense nuclear facility on which the real property is located. Before entering into any agreement for such a sale or lease, the Secretary shall notify the person or entity that the Secretary has authority to provide indemnification to the person or entity under this subsection. The Secretary shall include in any agreement for such a sale or lease a provision stating whether indemnification is or is not provided.

(2) Paragraph (1) applies to the following persons and entities:

(A) Any State that acquires ownership or control of real property of a defense nuclear facility.

(B) Any political subdivision of a State that acquires such ownership or control.

(C) Any other person or entity that acquires such ownership or control.

(3) To the extent the persons and entities described in paragraph (2) contributed to any such release or threatened release, paragraph (1) shall not apply.

(c) Conditions

(1) No indemnification on a claim for injury may be provided under this section unless the person or entity making a request for the indemnification—

(A) notifies the Secretary of Energy in writing within two years after such claim accrues;

(B) furnishes to the Secretary copies of pertinent papers received by the person or entity;

(C) furnishes evidence or proof of the claim;

(D) provides, upon request by the Secretary, access to the records and personnel of the person or entity for purposes of defending or settling the claim; and

(E) begins action within six months after the date of mailing, by certified or registered mail, of notice of final denial of the claim by the Secretary.

(2) For purposes of paragraph (1)(A), the date on which a claim accrues is the date on which the person asserting the claim knew (or reasonably should have known) that the injury to person or property referred to in subsection (b)(1) of this section was caused or contributed to by the release or threatened release of a hazardous substance, pollutant, or contaminant as a result of Department of Energy activities at the defense nuclear facility on which the real property is located.

(d) Authority of Secretary of Energy

(1) In any case in which the Secretary of Energy determines that the Secretary may be required to indemnify a person or entity under this section for any claim for injury to person or property referred to in subsection (b)(1) of this section, the Secretary may settle or defend the claim on behalf of that person or entity.

(2) In any case described in paragraph (1), if the person or entity that the Secretary may be

required to indemnify does not allow the Secretary to settle or defend the claim, the person or entity may not be indemnified with respect to that claim under this section.

(e) Relationship to other law

Nothing in this section shall be construed as affecting or modifying in any way section 9620(h) of this title.

(f) Definitions

In this section:

(1) The term ''defense nuclear facility'' has the meaning provided by the term ''Department of Energy defense nuclear facility'' in section 2286g of this title.

(2) The terms ''hazardous substance'', ''release'', and ''pollutant or contaminant'' have the meanings provided by section 9601 of this title.

(Pub. L. 105–85, div. C, title XXXI, § 3158, Nov. 18, 1997, 111 Stat. 2046.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1998, and not as part of the Department of Energy Organization Act which comprises this chapter.

''CONGRESSIONAL DEFENSE COMMITTEES'' DEFINED

Congressional defense committees means the Committees on Armed Services and Appropriations of the Senate and the House of Representatives, see section 3 of Pub. L. 105–85, 111 Stat. 1645, as amended by Pub. L. 106–65, div. A, title X, § 1067(4), Oct. 5, 1999, 113 Stat. 774.

§ 7275. Definitions

As used in sections 7275 to 7276c of this title:

(1) The term ''Administrator'' means the Administrator of the Western Area Power Administration.

(2) The term ''integrated resource planning'' means a planning process for new energy resources that evaluates the full range of alternatives, including new generating capacity, power purchases, energy conservation and efficiency, cogeneration and district heating and cooling applications, and renewable energy resources, in order to provide adequate and reliable service to its electric customers at the lowest system cost. The process shall take into account necessary features for system operation, such as diversity, reliability, dispatchability, and other factors of risk; shall take into account the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of such savings measured over time; and shall treat demand and supply resources on a consistent and integrated basis.

(3) The term ''least cost option'' means an option for providing reliable electric services to electric customers which will, to the extent practicable, minimize life-cycle system costs, including adverse environmental effects, of providing such service. To the extent practicable, energy efficiency and renewable resources may be given priority in any least-cost option.

(4) The term ''long-term firm power service contract'' means any contract for the sale by Western Area Power Administration of firm capacity, with or without energy, which is to be delivered over a period of more than one year.

(5) The terms ''customer'' or ''customers'' means any entity or entities purchasing firm capacity with or without energy, from the Western Area Power Administration under a long-term firm power service contract. Such terms include parent-type entities and their distribution or user members.

(6) For any customer, the term ''applicable integrated resource plan'' means the integrated resource plan approved by the Administrator under sections 7275 to 7276c of this title for that customer.

(Pub. L. 98–381, title II, § 201, as added Pub. L. 102–486, title I, § 114, Oct. 24, 1992, 106 Stat. 2799.)

CODIFICATION

Section was enacted as part of the Hoover Power Plant Act of 1984, and not as part of the Department of Energy Organization Act which comprises this chapter.

PRIOR PROVISIONS

A prior section 7275, Pub. L. 98–381, title II, § 201, Aug. 17, 1984, 98 Stat. 1340, related to energy conservation program of Western Area Power Administration, prior to the general amendment of title II of Pub. L. 98–381 by section 114 of Pub. L. 102–486.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7276, 7276a, 7276b, 7276c of this title.

§ 7276. Regulations to require integrated resource planning

(a) Regulations

Within 1 year after October 24, 1992, the Administrator shall, by regulation, revise the Final Amended Guidelines and Acceptance Criteria for Customer Conservation and Renewable Energy Programs published in the Federal Register on August 21, 1985 (50 F.R. 33892), or any subsequent amendments thereto, to require each customer purchasing electric energy under a long-term firm power service contract with the Western Area Power Administration to implement, within 3 years after October 24, 1992, integrated resource planning in accordance with the requirements of sections 7275 to 7276c of this title.

(b) Certain small customers

Notwithstanding subsection (a) of this section, for customers with total annual energy sales or usage of 25 Gigawatt Hours or less which are not members of a joint action agency or a generation and transmission cooperative with power supply responsibility, the Administrator may establish different regulations and apply such regulations to customers that the Administrator finds have limited economic, managerial, and resource capability to conduct integrated resource planning. The regulations under this subsection shall require such customers to consider all reasonable opportunities to meet their future energy service requirements using demand-side techniques, new renewable resources and other programs that will provide retail customers with electricity at the lowest possible cost, and minimize, to the extent practicable, adverse environmental effects.

(Pub. L. 98–381, title II, § 202, as added Pub. L. 102–486, title I, § 114, Oct. 24, 1992, 106 Stat. 2800.)

CODIFICATION

Section was enacted as part of the Hoover Power Plant Act of 1984, and not as part of the Department of Energy Organization Act which comprises this chapter.

PRIOR PROVISIONS

A prior section 7276, Pub. L. 98–381, title II, § 202, Aug. 17, 1984, 98 Stat. 1341, related to regulations of Western Area Power Administration, including amendment of regulations after notice and comment, evaluation of energy conservation programs, and allowance by Western for incorporation of elements of such programs, prior to the general amendment of title II of Pub. L. 98–381 by section 114 of Pub. L. 102–486.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7275, 7276a, 7276b, 7276c of this title.

§ 7276a. Technical assistance

The Administrator may provide technical assistance to customers to, among other things, conduct integrated resource planning, implement applicable integrated resource plans, and otherwise comply with the requirements of sections 7275 to 7276c of this title. Technical assistance may include publications, workshops, conferences, one-to-one assistance, equipment loans, technology and resource assessment studies, marketing studies, and other mechanisms to transfer information on energy efficiency and renewable energy options and programs to customers. The Administrator shall give priority to providing technical assistance to customers that have limited capability to conduct integrated resource planning.

(Pub. L. 98–381, title II, § 203, as added Pub. L. 102–486, title I, § 114, Oct. 24, 1992, 106 Stat. 2800.)

CODIFICATION

Section was enacted as part of the Hoover Power Plant Act of 1984, and not as part of the Department of Energy Organization Act which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7275, 7276, 7276b, 7276c of this title.

§ 7276b. Integrated resource plans

(a) Review by Western Area Power Administration

Within 1 year after October 24, 1992, the Administrator shall, by regulation, revise the Final Amended Guidelines and Acceptance Criteria for Customer Conservation and Renewable Energy Programs published in the Federal Register on August 21, 1985 (50 F.R. 33892), or any subsequent amendments thereto, to require each customer to submit an integrated resource plan to the Administrator within 12 months after such regulations are amended. The regulation shall require a revision of such plan to be submitted every 5 years after the initial submission. The Administrator shall review the initial plan in accordance with a schedule established by the Administrator (which schedule will provide for the review of all initial plans within 24 months after such regulations are amended), and each revision thereof within 120 days after his receipt of the plan or revision and determine whether the customer has in the development of the plan or revision, complied with sections 7275 to 7276c of this title. Plan amendments may be submitted to the Administrator at any time and the Administrator shall review each such amendment within 120 days after receipt thereof to determine whether the customer in amending its plan has complied with sections 7275 to 7276c of this title. If the Administrator determines that the customer, in developing its plan, revision, or amendment, has not complied with the requirements of sections 7275 to 7276c of this title, the customer shall resubmit the plan at any time thereafter. Whenever a plan or revision or amendment is resubmitted the Administrator shall review the plan or revision or amendment within 120 days after his receipt thereof to determine whether the customer has complied with sections 7275 to 7276c of this title.

(b) Criteria for approval of integrated resource plans

The Administrator shall approve an integrated resource plan submitted as required under subsection (a) of this section if, in developing the plan, the customer has:

(1) Identified and accurately compared all practicable energy efficiency and energy supply resource options available to the customer.

(2) Included a 2-year action plan and a 5-year action plan which describe specific actions the customer will take to implement its integrated resource plan.

(3) Designated ''least-cost options'' to be utilized by the customer for the purpose of providing reliable electric service to its retail consumers and explained the reasons why such options were selected.

(4) To the extent practicable, minimized adverse environmental effects of new resource acquisitions.

(5) In preparation and development of the plan (and each revision or amendment of the plan) has provided for full public participation, including participation by governing boards.

(6) Included load forecasting.

(7) Provided methods of validating predicted performance in order to determine whether objectives in the plan are being met.

(8) Met such other criteria as the Administrator shall require.

(c) Use of other integrated resource plans

Where a customer or group of customers are implementing integrated resource planning under a program responding to Federal, State, or other initiatives, including integrated resource planning considered and implemented pursuant to section 2621(d) of title 16, in evaluating that customer's integrated resource plan under sections 7275 to 7276c of this title, the Administrator shall accept such plan as fulfillment of the requirements of sections 7275 to 7276c of this title to the extent such plan substantially complies with the requirements of sections 7275 to 7276c of this title.

(d) Compliance with integrated resource plans

Within 1 year after October 24, 1992, the Administrator shall, by regulation, revise the

Final Amended Guidelines and Acceptance Criteria for Customer Conservation and Renewable Energy Programs published in the Federal Register on August 21, 1985 (50 F.R. 33892), or any subsequent amendments thereto, to require each customer to fully comply with the applicable integrated resource plan and submit an annual report to the Administrator (in such form and containing such information as the Administrator may require) describing the customer's progress to the goals established in such plan. After the initial review under subsection (a) of this section the Administrator shall periodically conduct reviews of a representative sample of applicable integrated resource plans and the customer's implementation of the applicable integrated resource plan to determine if the customers are in compliance with their plans. If the Administrator finds a customer out-of-compliance, the Administrator shall impose a surcharge under this section on all electric energy purchased by the customer from the Western Area Power Administration or reduce such customer's power allocation by 10 percent, unless the Administrator finds that a good faith effort has been made to comply with the approved plan.

(e) Enforcement

(1) No approved plan

If an integrated resource plan for any customer is not submitted before the date 12 months after the guidelines are amended as required under this section or if the plan is disapproved by the Administrator and a revised plan is not resubmitted by the date 9 months after the date of such disapproval, the Administrator shall impose a surcharge of 10 percent of the purchase price on all power obtained by that customer from the Western Area Power Administration after such date. The surcharge shall remain in effect until an integrated resource plan is approved for that customer. If the plan is not submitted for more than one year after the required date, the surcharge shall increase to 20 percent for the second year (or any portion thereof prior to approval of the plan) and to 30 percent thereafter until the plan is submitted or the contract for the purchase of power by such customer from the Western Area Power Administration terminates.

(2) Failure to comply with approved plan

After approval by the Administrator of an applicable integrated resource plan for any customer, the Administrator shall impose a 10 percent surcharge on all power purchased by such customer from the Western Area Power Administration whenever the Administrator determines that such customer's activities are not consistent with the applicable integrated resource plan. The surcharge shall remain in effect until the Administrator determines that the customer's activities are consistent with the applicable integrated resource plan. The surcharge shall be increased to 20 percent if the customer's activities are out of compliance for more than one year and to 30 percent after more than 2 years, except that no surcharge shall be imposed if the customer demonstrates, to the satisfaction of the Administrator, that a good faith effort has been made to comply with the approved plan.

(3) Reduction in power allocation

In the case of any customer subject to a surcharge under paragraph (1) or (2), in lieu of imposing such surcharge the Administrator may reduce such customer's power allocation from the Western Area Power Administration by 10 percent. The Administrator shall provide by regulation the terms and conditions under which a power allocation terminated under this subsection may be reinstated.

(f) Integrated resource planning cooperatives

With the approval of the Administrator, customers within any State or region may form integrated resource planning cooperatives for the purposes of complying with sections 7275 to 7276c of this title, and such customers shall be allowed an additional 6 months to submit an initial integrated resource plan to the Administrator.

(g) Customers with more than 1 contract

If more than one long-term firm power service contract exists between the Administrator and a customer, only one integrated resource plan shall be required for that customer under sections 7275 to 7276c of this title.

(h) Program review

Within 1 year after January 1, 1999, and at appropriate intervals thereafter, the Administrator shall initiate a public process to review the program established by this section. The Administrator is authorized at that time to revise the criteria set forth in subsection (b) of this section to reflect changes, if any, in technology, needs, or other developments.

(Pub. L. 98–381, title II, § 204, as added Pub. L. 102–486, title I, § 114, Oct. 24, 1992, 106 Stat. 2800.)

CODIFICATION

Section was enacted as part of the Hoover Power Plant Act of 1984, and not as part of the Department of Energy Organization Act which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7275, 7276, 7276a, 7276c of this title.

§ 7276c. Miscellaneous provisions

(a) Environmental impact statement

The provisions of the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] shall apply to actions of the Administrator implementing sections 7275 to 7276c of this title in the same manner and to the same extent as such provisions apply to other major Federal actions significantly affecting the quality of the human environment.

(b) Annual reports

The Administrator shall include in the annual report submitted by the Western Area Power Administration (1) a description of the activities undertaken by the Administrator and by customers under sections 7275 to 7276c of this title and (2) an estimate of the energy savings and renewable resource benefits achieved as a result of such activities.

(c) State regulated investor-owned utilities

Any State regulated electric utility (as defined in section 2602(18) of title 16) shall be exempt from the provisions of sections 7275 to 7276c of this title.

(d) Rural Electrification Administration requirements

Nothing in sections 7275 to 7276c of this title shall require a customer to take any action inconsistent with a requirement imposed by the Rural Electrification Administration [1]

(Pub. L. 98–381, title II, § 205, as added Pub. L. 102–486, title I, § 114, Oct. 24, 1992, 106 Stat. 2803.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

CODIFICATION

Section was enacted as part of the Hoover Power Plant Act of 1984, and not as part of the Department of Energy Organization Act which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7275, 7276, 7276a, 7276b of this title.

§ 7277. Report concerning review of United States coal imports

(a) In general

The Energy Information Administration shall issue a report quarterly, and provide an annual summary of the quarterly reports to the Congress, on the status of United States coal imports. Such quarterly reports may be published as a part of the Quarterly Coal Report published by the Energy Information Administration.

(b) Contents

Each report required by this section shall—

(1) include current and previous year data on the quantity, quality (including heating value, sulfur content, and ash content), and delivered price of all coals imported by domestic electric utility plants that imported more than 10,000 tons during the previous calendar year into the United States;

(2) identify the foreign nations exporting the coal, the domestic electric utility plants receiving coal from each exporting nation, the domestically produced coal supplied to such plants, and the domestic coal production, by State, displaced by the imported coal;

(3) identify (to the extent allowed under disclosure policy), at regional and State levels of aggregation, transportation modes and costs for delivery of imported coal from the exporting country port of origin to the point of consumption in the United States; and

(4) specifically highlight and analyze any significant trends of unusual variations in coal imports.

(c) Date of reports

The first report required by this section shall be submitted to Congress in March 1986. Subsequent reports shall be submitted within 90 days after the end of each quarter.

(d) Limitation

Information and data required for the purpose of this section shall be subject to the law regarding the collection and disclosure of such data.

(Pub. L. 99–58, title II, § 202, July 2, 1985, 99 Stat. 107.)

CODIFICATION

Section was enacted as part of the Energy Policy and Conservation Amendments Act of 1985, and also as part of the National Coal Imports Reporting Act of 1985, and not as part of the Department of Energy Organization Act which comprises this chapter.

SHORT TITLE

Section 201 of title II of Pub. L. 99–58 provided that: ''This title [enacting this section and provisions set out as a note below] may be cited as the 'National Coal Imports Reporting Act of 1985'.''

ANALYSIS OF UNITED STATES COAL IMPORT MARKET; REPORT BY SECRETARY OF ENERGY TO CONGRESS

Section 203 of Pub. L. 99–58 provided that:

''(a) IN GENERAL.—The Secretary of Energy shall, through the Energy Information Administration, conduct a comprehensive analysis of the coal import market in the United States and report the findings of such analysis to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives, within nine months of the date of enactment of this Act [July 2, 1985].

''(b) CONTENTS.—The report required by this section shall—

''(1) contain a detailed analysis of potential domestic markets for foreign coals, by producing nation, between 1985 and 1995;

''(2) identify potential domestic consuming sectors of imported coal and evaluate the magnitude of any potential economic disruptions for each impacted State, including analysis of direct and indirect employment impact in the domestic coal industry and resulting income loss to each State;

''(3) identify domestically produced coal that potentially could be replaced by imported coal;

''(4) identify contractual commitments of domestic utilities expiring between 1985 and 1995 and describe spot buying practices of domestic utilities, fuel cost patterns, plant modification costs required to burn foreign coals, proximity of navigable waters to utilities, demand for compliance coal, availability of less expensive purchased power from Canada, and State and local considerations;

''(5) evaluate increased coal consumption by domestic electric utilities resulting from increased power sales and analyze the potential coal import market represented by this increased coal consumption, including consumption by existing coal-fired plants, new coal-fired plants projected up to the year 1995, and plants planning to convert to coal by 1995;

''(6) identify existing authorities available to the Federal Government relating to coal imports, assess the potential impact of exercising each of these authorities, and describe executive branch plans and strategies to address coal imports;

''(7) identify and characterize the coal export policies of all major coal exporting nations, including the United States, Australia, Canada, Colombia, Poland, and South Africa, with specific analysis of—

''(A) direct or indirect Government subsidies to coal exporters;

''(B) health, safety, and environmental regulations imposed on each coal producer; and

''(C) trade policies relating to coal exports;

''(8) evaluate the excess capacity of foreign producers, potential development of new export-oriented

[1] So in original. Probably should be followed by a period.

coal mines in foreign nations, operating costs of foreign coal mines, capacity of ocean vessels to transport foreign coal, and constraints on importing coal into the United States because of port and harbor availability;

''(9) identify specifically the participation of all United States corporations involved in mining and exporting coal from foreign nations; and

''(10) identify the policies governing coal imports of all coal-importing industrialized nations (including the United States, Japan, and European nations) by considering such factors as import duties or tariffs, import quotas, and other governmental restrictions or trade policies impacting coal imports.''

§ 7278. Availability of appropriations for Department of Energy for transportation, uniforms, security, and price support and loan guarantee programs; transfer of funds; acceptance of contributions

Appropriations for the Department of Energy under this title[1] in this and subsequent Energy and Water Development Appropriations Acts, on and after October 2, 1992, shall be available for hire of passenger motor vehicles; hire, maintenance and operation of aircraft; purchase, repair and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services. From these appropriations, transfers of sums may on and after October 2, 1992, be made to other agencies of the United States Government for the performance of work for which this appropriation is made. None of the funds made available to the Department of Energy under this Act or subsequent Energy and Water Development Appropriations Acts shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriation Act. The Secretary is authorized on and after October 2, 1992, to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign.

(Pub. L. 102–377, title III, § 301, Oct. 2, 1992, 106 Stat. 1338.)

REFERENCES IN TEXT

This title, referred to in text, is title III of Pub. L. 102–377, Oct. 2, 1992, 106 Stat. 1332. For complete classification of title III to Code, see Tables.

CODIFICATION

Section was enacted as part of the Energy and Water Development Appropriations Act, 1993, and not as part of the Department of Energy Organization Act which comprises this chapter.

SUBCHAPTER VII—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

§ 7291. Transfer and allocations of appropriations and personnel

(a) Except as otherwise provided in this chapter, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions transferred by this chapter, subject to section 1531 of title 31, are hereby transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall only be used for the purposes for which the funds were originally authorized and appropriated.

(b) Positions expressly specified by statute or reorganization plan to carry out function transferred by this chapter personnel occupying those positions on October 1, 1977, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level I, II, III, IV, or V of the executive schedule (5 U.S.C. 5312–5316) on October 1, 1977, shall be subject to the provisions of section 7293 of this title.

(Pub. L. 95–91, title VII, § 701, Aug. 4, 1977, 91 Stat. 605.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original ''this Act'', meaning Pub. L. 95–91, Aug. 4, 1977, 91 Stat. 565, as amended, known as the Department of Energy Organization Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

CODIFICATION

In subsec. (a), ''section 1531 of title 31'' substituted for ''section 202 of the Budget and Accounting Procedures Act of 1950 [31 U.S.C. 581c]'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

§ 7292. Effect on personnel

(a) Full-time and part-time personnel holding permanent positions

Except as otherwise provided in this chapter, the transfer pursuant to this subchapter of full-time personnel (except special Government employees) and part-time personnel holding permanent positions pursuant to this subchapter shall not cause any such employee to be separated or reduced in grade or compensation for one year after August 4, 1977, except that full-time temporary personnel employed at the Energy Research Centers of the Energy Research and Development Administration upon the establishment of the Department who are determined by the Department to be performing continuing functions may at the employee's option be converted to permanent full-time status within one hundred and twenty days following their transfer to the Department. The employment levels of full-time permanent personnel authorized for the Department by other law or administrative action shall be increased by the number of employees who exercise the option to be so converted.

(b) Person who held position compensated in accordance with chapter 53 of title 5

Any person who, on October 1, 1977, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, and who, without a break in service, is appointed in the Department to a position having duties comparable to those performed immediately preceding his appointment shall con-

[1] See References in Text note below.